

# Australian Historic Vehicle Interest Group

The Hon Josh Frydenberg MP  
Treasurer

31 January 2019

The Hon Stuart Robert  
Assistant Minister to the Treasurer

Senator the Hon Zed Seselja  
Assistant Minister for Treasury and Finance

All c/o The Treasury  
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By email to: [PreBudgetSubs@treasury.gov.au](mailto:PreBudgetSubs@treasury.gov.au) and to Ministers individually

Dear Ministers

**2019-20 Federal Budget – Pre-Budget Submission No 1  
Removing the Luxury Car Tax (“LCT”) from the importation of cars over 30 years old (“Historic Cars”)**

Thank you for the invitation to make a Pre Budget Submission.

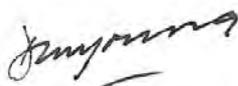
We are making 2, and this is the first.

The second relates to the way imposing the LCT on the importation of many Historic Cars contravenes Australia’s international obligations.

Members of AHVIG are available to appear in person before any inquiry into the matters we have raised.

Please contact the Chairman, Doug Young, on 0418 719 430 or [doug\\_young@inet.net.au](mailto:doug_young@inet.net.au) in the first instance should you require further information or clarification.

Yours sincerely,



Douglas Young  
Chair

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# **Australian Historic Vehicle Interest Group**

## **2019-20 Federal Budget**

**Pre-Budget Submission No 1**

**The Treasury**

**30 January 2019**

## Executive Summary

1. The application of the Luxury Car Tax (LCT) to the importation of Historic Cars (ie over 30 years old) is, and always has been an anomaly, when it does not apply to the sale of identical cars changing hands within Australia.
2. It is even more anomalous given the predecessor to the LCT (higher wholesale sales tax) was introduced to protect Australian manufacturers of new cars from overseas competition.
3. Since the LCT's introduction in 2000, there has been little or no disincentive to the export of our great Historic Cars, while the LCT has effectively prevented the importation, and reimportation, of such cars.
4. This has seen Australia's once great Historic Car fleet decimated.
5. The LCT on Historic Car imports has been so powerful a deterrent that it raises almost no LCT – less than ¼ of 1% of all LCT raised is attributable to such vehicles (about \$1.1m pa) - and is often incurred because the purchaser has no idea that a tax which everyone knows was introduced to protect Australian manufacturers of new cars could apply to the import of Historic Cars as well.
6. This impost on the importation of valuable Historic Cars has more detriments than the loss of our great Historic fleet – it deprives Australian businesses of the ability to participate in the World wide boom in interest and economic activity associated with such cars. This boom has pushed the values of many once worthless old cars well above the LCT threshold.
7. The UK, which accurately measures such things, says the Historic Vehicle “industry” (for want of a better term) contributes over £6 billion to the UK economy annually. Australian businesses are missing out.
8. For this reason, other countries, such as the EU members, recognise this and lower their VAT/GST to encourage Historic Car importation. The UK reduces it from 20% to 5%,
9. The survey AHVIG conducted to measure the impact were the LCT to be removed from Historic Car imports demonstrates that many more Historic Cars would be imported, and the GST on such imports would by far exceed any lost LCT.
10. And it would be the gift that keeps on giving, given the annual expenditure on storing, maintaining, and restoring such vehicles is measured in the thousands each year – all of which generates ongoing GST flows.
11. Secondary benefits of increased Historic Car imports include the social and health benefits associated with such a hobby, as well as Historic Car related tourism revenue.
12. The amendment announced in the 2018 Budget to exempt from the LCT the reimportation of second hand cars restored overseas, while welcome, further disadvantages Australian businesses who might otherwise restore such cars here.

For all these reasons, and those outlined more fully in the Submission, the importation of Historic Cars should be exempted from the LCT. There was bi-partisan Senate support for such a reform in 2008, and the reasons underpinning it then are even more compelling over a decade later.

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6. Brief history of LCT

7. "Land speed record-breaking motorcycle to return to Australia after setting top auction price" – ABC News, 3 February 2018

8. 2009 Auction catalogue entry for 1901 De Dion Bouton

9. Up the Creek (Grant Cowie) Letter 5 February 2018

## Abbreviations and other terms used in this document

While each abbreviation is identified when it first appears, as this is a long document, they are reproduced here for ease of reference.

AHECC	Australian Harmonised Export Commodity Classification
AOMC	Association of Motoring Clubs, Inc (a Victorian peak body for Historic Car clubs)
ATO	Australian Taxation Office
CHMC	Council of Heritage Motor Clubs (an NSW peak body for such clubs)
CTA	<i>Customs Tariff Act 1995</i>
CSIRO	Commonwealth Scientific and Industrial Research Organisation
Customs	That part of DHA collecting LCT on privately imported Historic Cars
DFAT	Department of Foreign Affairs and Trade
DGR	Deductible Gift Recipient
DHA	Department of Home Affairs
DIBP	Department of Immigration and Border Protection, now DHA
DIRD	Department of Infrastructure and Regional Development
EU	European Union
FBHVC	Federation of British Historic Vehicle Clubs
FOI	Freedom of Information
FTA	Free Trade Agreement
GATT	General Agreement on Tariffs and Trade (depending on context, GATT 1947, 1994, and as adopted after expiry by the WTO)
GST	Goods and Services Tax
Historic Car	any passenger car aged 30 years or more*
HMRC	Her Majesty's Revenue and Customs (UK)
LCT	Luxury Car Tax
MOU	Memorandum of Understanding
MOT	UK Ministry of Transport annual test of vehicles' roadworthiness and exhaust emissions over 3 years old

NEC	National Exhibition Centre, Birmingham UK. The annual Historic Car event held there is known as the “NEC”.
PBR	Private Binding Ruling, issued by the ATO
PCMH Act	<i>Protection of Movable Cultural Heritage Act 1986</i>
SCCSA	Sporting Car Club of South Australia
VAT	Value Added Tax (the name other countries sometimes give to a consumption tax akin to the GST)
VCCQ	Vintage Car Club of Qld Inc
VIA	Vehicle Import Approval
WST	Wholesale Sales Tax
WTO	World Trade Organisation

\* Note this conforms with the EU definition, from Directive 2014/45/EU of The European Parliament, accepted world-wide:

“ ‘vehicle of historical interest’ means any vehicle which is considered to be historical by the Member State of registration or one of its appointed authorising bodies and which fulfils all the following conditions:

- it was manufactured or registered for the first time at least 30 years ago;
- its specific type, as defined in the relevant Union or national law, is no longer in production; and
- it is historically preserved and maintained in its original state and has not undergone substantial changes in the technical characteristics of its main components.”

## 1. Overview

### 1.1 Subject matter:

- (a) This is not simply another voice in the decades-old chorus calling for the abolition of the LCT: rather, **it seeks an exemption from the LCT on the importation of passenger cars aged 30 years and older.**
- (b) Whereas the Luxury Car Tax (LCT) (and GST) are only imposed on the sale of **new** cars<sup>1</sup> occurring within Australia, they are also imposed on the importation of cars **of any age**, and so far as this submission is concerned, on cars more than 30 years old (Historic Cars)<sup>2</sup>.
- (c) **This acts as an almost complete barrier to the importation<sup>3</sup> of Historic Cars worth more than the LCT threshold**, resulting in the loss of opportunities for Australian businesses, deprives Australians of jobs, and prevents the replenishment of Australia's once-great heritage motoring fleet. The Commonwealth also misses out on the substantial GST revenue that would otherwise be earned were Historic Cars able to be imported free of the LCT.
- (d) The issue was recognised in 2008 by the Senate Standing Committee on Economics<sup>4</sup>, with bi-partisan agreement that consideration be given to exempting the importation of Historic Cars from the LCT. Despite this, nothing was done.
- (e) While there have been numerous media reports that the demise of the LCT is imminent, or that it will be phased out over the next 4 years, all policy considerations behind those decisions are irrelevant to Historic Car imports. Often, the stated intended outcomes of LCT policies, while achieved for new cars, have the converse effect on Historic Cars. Regardless of any such decisions, imports of Historic Cars need to be looked at separately from the treatment for the sale of new cars.
- (f) This Submission seeks that the exemption, proposed in 2008, be implemented forthwith.

### 1.2 Methods: This submission is based on the following fact-finding methods, including:

- (a) Inquiries of Government Departments, as to the amount of LCT raised on the importation of vehicles over 30 years old.
- (b) Various relevant Commonwealth policy statements in Second Reading Speeches, Explanatory Memoranda, Ministerial Media Releases, and Government-commissioned Review Reports, such as the Simpson Review into the *Protection of Movable Cultural Heritage Act 1986* (PCMH Act).

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<sup>1</sup> And new cars resold at a profit within 2 years.

<sup>2</sup> For a history of the LCT, see the article "A Hobby, A Heritage, An Industry: How The Luxury Car Tax Impacts Them All" submitted with the Executive Summary in December 2017.

<sup>3</sup> Of cars worth more than the LCT threshold.

<sup>4</sup> Senate Standing Committee on Economics Report into the proposed increase in LCT from 25% to 33%. While dividing along party lines for the main issue, both sides recognised there was a case for exempting the import of Historic Cars from the LCT.

- (c) Survey results, of members of various Historic Car clubs, including those who have imported such cars and paid LCT on them, to determine whether more Historic Cars would be imported were it not for the LCT, and the amounts likely to be spent on them after import.
- (d) Inquiries of professional restorers, who are aware of client desires to permanently import Historic Cars for restoration and retention within Australia.
- (e) Records kept of specific types of Historic Cars imported and exported before and after the LCT commenced applying to such vehicles, and
- (f) Other relevant research.

1.3 Results: These inquiries disclosed that:

- (a) Because of Australia's extraordinarily high standard of living throughout the 20<sup>th</sup> century, many of the world's best cars were imported new to Australia. Even police forces bought some of the greatest pre WW2 cars, with WA buying Speed 6 Bentleys, and Victoria 4.3 litre Alvises. This Historic Car fleet also survived as war was more remote and our climate was far less destructive as little or no snow and salted-road driving occurred. Australia's Historic Car fleet was the envy of the world.
- (b) Many of those great cars have been lost to overseas, those losses have been greatest over the past 2 decades: over 40% of particular types in some cases.
- (c) Imposing the LCT on the importation, and reimportation, of Historic Cars acts as an almost complete barrier to such importations and reimportations.
- (d) The importance of this issue, and the means of resolution, were the subject of bi-partisan Senate recognition in 2008, with support for exempting the importation of Historic Cars from the LCT<sup>5</sup>. Despite this, nothing was done.
- (e) The appropriateness of such an exemption has already been recognised, and legislated for, for the Museums, Galleries and Libraries sector. An LCT exemption was granted in February 2017<sup>6</sup> for the importation of cars of any age (for public display) which satisfy the criteria of "collectors pieces" or "works of art". As observed by (then) Treasurer Swan (when first announcing the proposal in 2011) it means they do not pay Customs Duty, GST or LCT on the importations<sup>7</sup>. This proposal had bi-partisan support, as after lapsing, Treasurer Hockey reintroduced it in 2015 and it became law last year.
- (f) There is a world-wide boom of interest and economic activity associated with the old car movement. Some countries, such as the UK, recognise and embrace this- by *inter alia*, easing barriers to entry of such cars<sup>8</sup> - and as a result, the value to the UK economy was a verified £5.5bn in the last financial year. Another indicator is that auctions sales of classic cars in the USA exceed US\$1bn a year. And original manufacturers of such cars are now

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<sup>5</sup> *ibid.*

<sup>6</sup> *Tax and Superannuation Laws Amendment (2016 Measures No. 2) Act 2017*

<sup>7</sup> [http://www.budget.gov.au/2011-12/content/bp2/html/bp2\\_revenue-07.htm](http://www.budget.gov.au/2011-12/content/bp2/html/bp2_revenue-07.htm)

<sup>8</sup> EG, whereas VAT on car imports is generally 20%, it is 5% for Historic Cars. The UK also allows free road registration for such cars.

making identical replicas of cars from the 1950s and 1960s, such as the Jaguar XKSS (9 at £1m, all sold) and Lightweight E Type (6 at £1.2m, all sold); the Aston Martin DB4GT (25 cars at £1.5m, all sold). The Aston Martin factory said this new production line created 25 new jobs<sup>9</sup>. Closer to Australia, New Zealand has no LCT on Historic Cars and benefits from international custom in terms of its restoration industry, at Australia's expense.

- (g) Rather than raising significant amounts of LCT, imposing it on imports of Historic Cars acts as an almost complete barrier to their importation. This is because the combined total of the LCT and GST can add over 40% to the price of the car, with no corresponding increase in its value.
- (h) As a result, only a handful of high value Historic Cars have been imported since 2000, and the LCT raised on such cars has averaged only A\$1.2m per year over the last decade (0.24% of LCT raised) , and only 0.2% of the LCT raised in 2016-17<sup>10</sup>.
- (i) The numbers of Historic Cars exported since the commencement of the LCT in 2000 by far exceed those being imported. Australia's once-great fleet of high quality Historic Cars is being steadily eroded, with, as mentioned above, over 40% of some examples having been lost overseas forever.
- (j) Because the LCT acts as a one-way valve preventing the reimportation of cars previously exported, and the importation of similar cars, it actually subverts the policy underpinning the PCMH Act. It prevents Australians from reimporting Historic Cars which were exported long ago, and would otherwise restore part of Australia's motoring heritage.
- (k) This damages not only Australia's heritage – it also deprives Australians of business opportunities and jobs. One car alone whose importation is blocked by the LCT (which would amount to A\$600k) - would cost A\$1m to restore, and provide 4 jobs for 3 years<sup>11</sup>. The GST on the importation of 12 cars that this restorer's clients would import but for the LCT would be A\$1.132m alone.
- (l) The jobs created by Historic Cars owners generally fall under small business definitions and are often in regional areas. The jobs include artisan type jobs and include skilled trades. They encourage smaller operators and seek those with high levels of skill. Jobs exist and can be created for ex-automotive workers in this sector. Historic Car owners also use their cars and spend money on accommodation and meals, as well as fuel, oil, and maintenance<sup>12</sup>.

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<sup>9</sup> BBC East of England Video -

[https://www.facebook.com/bbcnewseast/videos/1666291363451736/?multi\\_permaLinks=10156015946998665&notif\\_id=1517381779170195&notif\\_t=group\\_highlights](https://www.facebook.com/bbcnewseast/videos/1666291363451736/?multi_permaLinks=10156015946998665&notif_id=1517381779170195&notif_t=group_highlights)

<sup>10</sup> As advised by the Department of Immigration and Border Protection (DIBP), who, pursuant to an MOU with the ATO, collect LCT on private imports of cars. Last financial year, total LCT receipts were A\$607m., with A\$3m being collected by DIBP, of which A\$1.3m was attributable to Historic Car imports.

<sup>11</sup> A particularly historically significant 1930s Mercedes 540K staff car – see attached letter from Sleeping Beauties restoration business, which has 12 cars clients would like to import and have that business restore, but for the LCT. That letter has more information about this and other cars that would be imported for restoration were it not for the LCT.

<sup>12</sup> Jaguar Cars Ltd advised that in recreating the Lightweight E Type and XKSS continuation cars that they tapped into the "cottage industries" that flourished in Britain.

- (m) Some countries hold many major internationally recognised Historic Car events each year. Australia holds one – Melbourne’s Motorclassica. This delivers an economic impact of A\$9.2m to Melbourne over 4 days. The organisers are however concerned about the ever diminishing pool of cars to exhibit and the barrier to importing similar cars posed by the LCT.
- (n) A survey the Australian Historic Vehicle Interest Group has conducted of about 410 enthusiasts has identified :
  - (i) They would import 676 Historic Cars were it not for the LCT.
  - (ii) They own, here and overseas, 867 cars worth more than the LCT threshold, on which they have spent \$24,190 per car over the last 5 years, or a total of \$20,972,730.
  - (iii) The average amount spent per car per year has been \$4,838.
  - (iv) Were the LCT removed and these cars imported, the Government would earn at least \$4,394,000<sup>13</sup> GST on the importation, and if owners spent similar amounts on the cars, a further \$1,635,510 in GST on the work performed over 5 years.
- (o) Where Historic Cars qualify as Collectors Pieces, it appears the imposition of LCT and GST on their importation may contravene Australia’s WTO obligations.

#### 1.4 Conclusions:

- (a) The LCT prevents Australians from participating in the world wide classic car boom in interest and economic activity, with Australia being likened to an undeveloped third world country, providing only its raw materials – its great Historic Cars – with the massive value adding being done in other countries.
- (b) Were the importation of Historic Cars to be exempted from the LCT, the following would occur:
  - (i) It would be revenue-positive for the Commonwealth, as it would reap far more GST on such imports than the meagre amount of LCT it currently receives from same.
  - (ii) It would go some way towards replenishing Australia’s once-great heritage car fleet.
  - (iii) It will also stimulate and lead to the expansion of existing businesses and creation of new ones.
  - (iv) The annual spend on such Historic Cars would represent the ‘gift that keeps on giving’ with substantial amounts to be spent on restoration and ongoing maintenance.

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<sup>13</sup> This is a minimum number, assuming the vehicles had a value of only \$65,000 and 10% GST was payable only on that. Many cars would be worth more than \$65k, often multiples of it.

12.

- (v) It will create jobs and revenue streams only enjoyed at present by residents of overseas countries and ensure that the skills necessary to restore and maintain these cars would be preserved.
- (vi) It would allow Australian businesses to share in the massive returns being enjoyed by overseas countries which do not have prohibitive barriers to the entry of Historic Cars.

1.5 Recommendations:

- (a) That the importation of Historic Cars be exempted from the application of the LCT.
- (b) That until then, any decision taken about the LCT have regard to the Historic Car sector and the differing effects that LCT issues have on Historic Cars, when compared with new cars.

## 2. The Australian Historic Vehicle Interest Group (AHVIG)

This Group was formed in early 2017 and comprises 14 individuals<sup>14</sup> active in the Historic Car movement around Australia, long-concerned about the devastating impact the LCT was having on the movement. They are also active in various State and National peak bodies for those clubs.

The entities supporting this Submission are:

National Motoring Groups

AHMF (Australian Historic Motoring Federation)  
The Association of Veteran Car Clubs in Australia  
Veteran Car Club of Australia (Victoria)

National Automotive Industry Body

Australian Automotive Industry Association

State Based Motoring Groups

AOMC (Association of Motoring Clubs Vic)  
QHMC (Qld Historic Motoring Council)  
Bentley Drivers Club South Australia  
MG Car Club Victoria  
Sporting Car Club of South Australia  
Veteran Car Club of Australia (Victoria)  
Veteran Car Club of WA  
Vintage Drivers Club Victoria  
Vintage Car Club of Qld Inc  
Vintage Sports Car Club of Australia (NSW)  
Vintage Sports Car Club of Victoria  
Vintage and Classic Car Club (Ballarat) Inc

National One Make Clubs

Alfa Romeo Owners Club of Australia (Vic)  
Alvis Car Club NSW (but a national club, as is the Vic equivalent)  
Alvis Car Club Vic  
Australian Lancia Register  
Aston Martin Owners Club Qld  
Bentley Drivers Club of Australia  
Bristol Owners Club Australia  
Bugatti Club Australia  
Delage Club of Australia  
Maserati Owners Club of Australia  
Porsche 356 Register

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<sup>14</sup> Roderick Amos; Heather Goldsmith; John Gove; John Johnston; Peter Latreille; Andrew McDougall; Daryl Meek; Doug Morrissey; Geoff Murdoch; Iain Ross; Phillip Schudmak; David Wright; Doug Young (Chair); Matthew Lombard; Keith Mortimer.

Supporting businesses

Motorclassica <https://motorclassica.com.au/>

Sleeping Beauties Restoration Business <http://sleepingbeauties.com.au/>

Up the Creek Workshop <https://www.upcreek.com.au/>

Oldtimer Australia (Mark Jansen) <http://www.oldtimeraustralia.com/>

Automobili Rapide (Terry Healy) <https://www.carsales.com.au/dealer-services/automobili-rapide-p-l/AGC-SELLER-53596>

Brooklands Classic Cars (Paul Sabine) <http://www.brooklandsc.com/>

3. Acknowledgements

AHVIG and its supporters would like to thank everyone who has contributed to this Submission.

Particular thanks are due to the officers of the following Commonwealth entities for the courtesy and promptness with which they responded to various queries as we built a picture of the impact of the LCT on the Historic Car movement:

- (a) Department of Home Affairs (DIBP when most of the assistance was provided)
- (b) Department of Infrastructure and Regional Development
- (c) Australian Taxation Office
- (d) Australian Bureau of Statistics

We would also like to thank the various motoring groups, in particular the RACV and the Association of Motoring Clubs, for their practical assistance.

Thanks too to Mark Friezer and Andrew Sommer of Clayton Utz, for advice on the GST treatment of museum purchases of cars which are “works of art or collectors’ pieces”.

Thanks are also due to various other peak bodies for historic motoring clubs both State and National, numerous Historic Car Clubs, various commentators, Motorclassica, dealers in and restorers of Historic Cars, as well as the hundreds of members of various Historic Car Clubs for their generosity in responding to the survey.

We also thank those who have provided funds to make this submission possible.

#### 4. The Size and Value of the Historic Car Movement in Australia

##### 4.1 Size

VicRoads is the Victorian motor vehicle registration authority. It advises that there are 215,086 cars and trucks more than 30 years old registered for use in Victoria, owned by 168,239 individuals (i.e.1.2 vehicles per person).

There are obviously more vehicles in storage/under restoration which we can only estimate but it would be feasible for there to be a further 45,000 such vehicles in Victoria (a conservative estimate assuming circa one for every five on the road). That would make the total fleet in excess of 250,000 in the hands of, say, just short of 200,000 owners (1.25 vehicles per individual).

The overall Australian picture would therefore be;

Vehicles more than 30 years old: 961,500

Owners: 769,200

There are also State based schemes whereby Historic Cars are able to be registered for a reduced amount and used on a restricted basis. In Victoria and South Australia, for example, Historic Cars can be used up to a maximum of 90 days per year. The Schemes are administered through accredited clubs and associations. The number of such clubs in Victoria is 891; in NSW 1,109. While many of these are small local clubs, they illustrate the level of interest in Historic Cars.

Looking to the data gathered by the FBHVC<sup>15</sup> in the UK<sup>16</sup> for comparison we can see that their equivalent vehicle population is 637,000 in the hands of 1.33 million people. In population terms the UK is 2.7 times larger than Australia but their old vehicle fleet has suffered a far higher scrappage rate over time (weather, wars etc) Even today Australia's average passenger vehicle age is over nine years. Car ownership per capita has also been historically lower in the UK than in Australia.

##### 4.2 Value

British data determines the value of the Historic Car movement to the British economy is £5.5bn and identifies the annual spend by old vehicle owners, per car, as £3,200. This includes direct expenditure on vehicle restoration, maintenance, repairs, fuel, oil, tyres, registration, insurance, tools, clothing etc. and indirect expenditure on such things as event entry, books and magazines, models, club membership etc.

The cost of these things is relatively the same in Australia as in the UK and therefore the local average annual expenditure by HV enthusiasts on their hobby can be reasonably estimated at circa \$5,500. This would make the total value of the local HV market some \$4.25 billion.

Local industry data for the sector of small garages and workshops (excluding main dealers) indicates the average expenditure on just servicing and repairs of vehicles up to 20 years old is

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<sup>15</sup> The [Federation of British Historic Vehicle Clubs](#)

<sup>16</sup> £4bn in 2014 [www.fbhvc.co.uk/file/13/fbhvc-reportfinal-revised-pdf/](http://www.fbhvc.co.uk/file/13/fbhvc-reportfinal-revised-pdf/) which had risen to £5.5bn by 2016 - [www.fbhvc.co.uk/research/file/246/final-fbhvc-national-survey-report-2016-pdf/](http://www.fbhvc.co.uk/research/file/246/final-fbhvc-national-survey-report-2016-pdf/)

\$825.00 p.a. The greater costs associated with older cars for the same items plus the relatively high cost of most of the other items included in the British data suggests that such a total is quite feasible. This is a significant business sector the value of which is restricted by the limits on its turnover that LCT imposes by reducing the size of the highest-spending market segment.

In the UK the high net worth segment of the HV sector is estimated at 2,200 individuals spending £262M per annum on purchase, restoration, maintenance of Historic Cars.

The Australian equivalent group would number around 800 to 1,000 individuals but their expenditure is likely to be relatively lower given the fact that access to the higher cost types of vehicle they favour is restricted because many of our local fleet have been exported and replacements cannot be obtained at realistic cost due to LCT. If this group was able to operate in the same way as its UK equivalent its annual expenditure would represent an additional \$96M.

This analysis is reinforced by the results of the survey conducted for the purpose of this submission, where Australian-based owners of Historic Cars worth more than the LCT threshold spent \$4,838 per car per year over a 5 year period.

## 5. Australia's Motoring Heritage – 1900 to 2000 – Introduction of the LCT

### 5.1 1900 to 1970s

From the beginning to the end of the 20<sup>th</sup> Century Australia enjoyed an exceptional standard of living. In 1900 it had one of the highest per capita incomes in the world, and GDP per capita, even in 2014, remained one of the highest in the world. Moreover, Australia maintained this consistently throughout the century<sup>17</sup>.

From the emergence of the motor vehicle in the early 20<sup>th</sup> century Australians were avid adopters of this new device. In the first three decades Australia became home to the most diverse fleet of vehicles in the world with vehicles from all over Europe and America coming here. For example, in the early 1920s, 60% of the total production of the celebrated 30/98 Vauxhall were sold to Australia. Australia became home to examples of many of the rarest and exotic vehicles built during the time when the automotive landscape was characterised by large numbers of small volume producers of individualistic designs.

In 1930 there were 570,000 motor vehicles in Australia, placing it fifth in world ownership - only the USA, UK Germany and France had more.

These included makes which are still household names today, such as Alfa Romeo, Rolls Royce, Bentley, Bugatti, Lancia, Mercedes, and Vauxhall. Other once-famous names from now extinct manufacturers, like Austro-Daimler, Chenard Walcker, Delage, Frazer-Nash, Lorraine Dietrich, Isotta Fraschini, Minerva, Delahaye, Talbot, Sunbeam, and many more, were bought here when new.

Other significant cars were imported early in their lives, such as the “Beast of Turin”<sup>18</sup>, one of two 28 litre monsters built by Fiat in 1911 for land speed record purposes. It was imported to Australia around 1920, and exported to the UK in 2003. This car is now running again in the UK and is a tourist attraction in its own right.

However, the acquisition of fine pre-war automobiles did not finish with World War II – many were imported by enthusiasts thereafter, and they continued to purchase new cars from the world's finest manufacturers through to the 1980s – adding to what are now our fleet of Historic Cars.

This country's climatic and economic circumstances were conducive to high survival rates of this rich pool. This led to Australia becoming a happy hunting ground for car enthusiasts/collectors from all over the world from the nineteen sixties on, leading to the loss of substantial numbers of our vehicles. The cars most sought after were the rarer, more exotic, and high-value cars from every era from 1900 to the seventies. So much of that high-end of our rich heritage has been depleted that much of the diversity of our historic fleet has been lost. The loss has been greatest among the vehicles that are the icons of the movement; the cars that fire and drive enthusiasm. Like sports stars they are the focus of people's passion even if their own game is played at a lesser standard.

In the 1970s, the Commonwealth removed Customs Duty from the importation of Historic Cars, recognising the fact that there were no adverse commercial or industry implications in the hobby of

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<sup>17</sup> “The Australian growth miracle: An evolutionary macroeconomic explanation”, Foster J, School of Economics, University of Qld, 2014, <http://www.uq.edu.au/economics/abstract/521.pdf> accessed 18 January 2018.

<sup>18</sup> [https://en.wikipedia.org/wiki/Fiat\\_S76\\_Record](https://en.wikipedia.org/wiki/Fiat_S76_Record) . Now restored and running in the UK, it is regarded as one of the most significant pre-WW1 cars in existence. It can be seen running here: <https://www.youtube.com/watch?v=eToHTf-QUBA>

old vehicle restoration and maintenance and that its social and community value was enhanced by not imposing barriers<sup>19</sup>. This exemption continues to this day<sup>20</sup>.

## 5.2 1980s to 2000

It was thought that the advent of the Protection of Moveable Cultural Heritage legislation<sup>21</sup> in 1986 might stem the exodus, but it did not – leading, in part, to the Review<sup>22</sup> conducted by Shane Simpson AM in 2015.

However, up until the introduction of the LCT, enthusiasts were still continuing to import reasonable numbers of valuable Historic Cars. This was attributable in part to there being no taxes imposed on the importation of cars 30 years of age and older.

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<sup>19</sup> AOMC Submission to the Senate Standing Committees on Economics in 2008.

<sup>20</sup> Schedule 4, Item 36, to the *Customs Tariff Act 1995* prescribes the “Rate of Duty” on the importation of passenger motor vehicles aged 30 years or more to be “Free”.

<sup>21</sup> *Protection of Movable Cultural Heritage Act 1986*

<sup>22</sup> *Borders of Culture – Review of the Protection of Movable Cultural Heritage Act 1986* Final Report 30 September 2015

## 6. Commencement of the LCT<sup>23</sup> and Impact on Historic Cars

### 6.1 Background to the LCT

A Wholesale Sales Tax (WST) had been imposed on the sale of new cars, whether imported or locally made, since 1930.

In August 1986, the Hawke Labor Government introduced a form of “luxury car tax” when it increased the WST rate on new cars costing more than the depreciation threshold from the standard 20% to 30%.<sup>24</sup>

Various modification were made to the way the WST was imposed, such that by 1995, the WST was 22 per cent for the first \$36,995 wholesale price (corresponding to about \$55,000 retail) and 45 percent on the balance above \$36,995.<sup>25</sup> However, it still applied only to new cars.

In 1999, the Howard LCP Government introduced sweeping reforms to the indirect tax system, abolishing the WST and replacing it with the GST<sup>26</sup>. Ostensibly to avoid a dramatic drop in the price of new cars, the LCT Act<sup>27</sup> was also introduced<sup>28</sup>.

Both the GST and LCT only applied to NEW cars sold for the first time within Australia<sup>29</sup>, and in that sense could be said to be implementing the stated objective of the new scheme – to replace the myriad of other indirect taxes, both State and Federal, such as the WST.

However, in a move that was never explained or justified, both the GST and WST were also made to apply to the importation of motor cars of any age, including, of course, to Historic Cars. The

<sup>23</sup> A Table summarising the history of the LCT is at Attachment 6.

<sup>24</sup> Senate Standing Committee on Economics Report into the Tax Laws Amendment (Luxury Car Tax) and associated Bills 2008; Dissenting Report from Coalition Senators; page 22

<sup>25</sup> Ibid. p.22

<sup>26</sup> *A New Tax System (Goods and Services Tax) Act 1999*, and the accompanying suite of GST Acts.

<sup>27</sup> There was a suite of 4 Acts, to ensure that every possible head of Commonwealth legislative power was invoked - *A New Tax System (Luxury Car Tax) Act 1999*(LCT Act), *A New Tax System (Luxury Car Tax Imposition—General) Act 1999*, *A New Tax System (Luxury Car Tax Imposition—Excise) Act 1999*, and *A New Tax System (Luxury Car Tax Imposition—Customs) Act 1999*.

<sup>28</sup> From the Explanatory Memorandum to *A New Tax System (Luxury Car Tax) Bill 1999*

“1.22 Cars in general will fall in price as a result of the change from the wholesale sales tax to the GST. If the Government took no specific action, then the price of luxury cars would fall dramatically as they are currently subject to the special wholesale sales tax rate of 45% to the value above the luxury car tax threshold. The Government does not believe that this price reduction is appropriate following the replacement of the wholesale sales tax with the GST. Therefore, the Government will impose a retail tax on luxury cars, at a rate of 25% of the value above the luxury car tax threshold. The luxury car tax threshold is a GST-inclusive value equal to the car depreciation limit (the car depreciation limit for the 1997-98 financial year is \$55,134). The tax will ensure that luxury cars only fall in price by about the same amount as a car just below the luxury threshold.”

<sup>29</sup> Or new cars resold at a profit within 2 years of first sale.

general tenet of the GST and LCT packages of bills was that the raft of State and Commonwealth taxes would be replaced; **not that the basket of things to be taxed would also be increased**<sup>30</sup>.

It meant that while Historic Cars changing hands within Australia were not subject to GST or LCT, identical cars bought overseas and imported were subject to both.

This also applies to the reimportation of cars exported even on a temporary basis, with unchanged ownership, if any work was done on them while overseas.

Moreover, Historic Cars reimported after an ownership change are subject to GST and LCT, even if WST was paid on the cars when new<sup>31</sup>.

It was then that Australia diverged from other countries with an interest in Historic Cars. There was a full-rate GST plus LCT on cars whose landed cost (not the purchase price, but inclusive of the costs of freight and insurance, and the GST) exceeded the LCT threshold.

## 6.2 Impact of the LCT on Historic Car Imports - General

By any measure, the impact of the LCT on the Historic Car movement has been devastating. One of the reasons is that cars which were once cheap have become sought after by collectors here and overseas and there has been a steady rise in their value, often to above the LCT threshold. Much of this can be ascribed to the costs of restoration, which, wherever it is performed in the world, is never cheap. Those restoration costs are inevitably reflected in the prices people are prepared to pay to avoid those costs. The nett result is that prices have risen, reflecting the heightened interest and restoration costs.

The LCT is imposed on the part of a car's adjusted price<sup>32</sup> that exceeds the LCT threshold<sup>33</sup>, at the rate of 33%<sup>34</sup>.

It acts as an almost complete barrier to the importation, and reimportation, of Historic Cars whose landed cost exceeds the LCT threshold by any significant amount.

The tragedy of the loss of most of the top-end of Australia's Historic Car fleet is compounded by the impost of LCT which makes it virtually impossible for local enthusiasts to seek to redress the past and continuing depredations by bringing into this country examples of those rarer and more interesting pieces of automotive history.

## 6.3 Data Sets from Departments of Home Affairs (DHA) (formerly the Customs area of Immigration and Border Protection) and Infrastructure and Regional Development (DIRD)

The relevance of these Departments is that DIRD issues the Vehicle Import Approvals required to import any car, and DHA collects the LCT and GST on all privately imported cars on behalf of the

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<sup>30</sup> This is discussed further under Part 13, Policy Considerations

<sup>31</sup> There is an exemption for cars on which LCT was previously paid, but as all Historic Cars pre-date the introduction of the LCT, it is meaningless for Historic Car imports – LCT Act Paragraph 7-10(3)(b)

<sup>32</sup> Currently approx \$65k, inclusive of freight and insurance to bring the Car to Australia, and GST. In practical terms, a Car with a purchase price of \$55k will have an LCT value above the LCT threshold.

<sup>33</sup> LCT threshold for 2017-18 is \$65,094.

<sup>34</sup> The relative import tax barriers for the major Historic Car interest countries are outlined at Part 12.

ATO. DIRD has provided data on all VIAs for Historic Cars issued since 2000<sup>35</sup>, and DHA has provided data on LCT collected on privately imported Historic Cars since 2007.

The DHA figures indicate that while there are thousands of Historic Cars imported each year, a mere handful of those coming in have a landed cost above the LCT threshold. To illustrate, in 2014-15, a total of 2,934 Historic Cars entered the country, with 2,736 being valued at under \$50,000, and only 198 above. Of the 198, most of these were in the \$50-\$99k range, where the LCT impact is less. Of the 34 cars worth over \$200k, none attracted any LCT liability which means they were either temporary imports, or returning Australian cars which had gone overseas for a short period, probably to attend an old car rally. The full list of data from DHA is at Attachment 1<sup>36</sup>.

That data indicates that over the 10 year period covered, 38,814 Historic Cars entered the country. This is consistent with the 65,000 (approx) Vehicle Import Approvals issued over the 18 year period from 1 July 2000.

Of those 38,814 cars, those with a Customs value (ie, the purchase price overseas, plus the cost to get the car to the export port there) of under A\$50,000 account for 36,867, or 95% of them. Some LCT was paid on these cars as the LCT value is the Customs value, plus freight and insurance to get the car to Australia, plus GST.

#### 6.4 Effect on local industry and jobs (discussed further at 9.0 below)

A further consequence of the shrinkage of the top-end of the historic vehicle spectrum in Australia has seen our local industry supporting the movement handicapped in its growth.

The owners of high-end vehicles are often high net worth individuals who spend more on restoration, servicing, parts, storage, insurance and so on than the average enthusiast

That higher spend often underpins the turnover and development of the network of businesses providing these specialist services. With a limited volume of business from that segment local industry is limited in its scope to provide such services to the broader elements of the market. In turn that reduces the scope for employment and training in technical trades and reduces revenues for government via GST and other taxes.

#### 6.5 Some particular losses to Australia's Historic Car fleet

It is instructive to look at some particular types of cars to understand the losses that have occurred. The data used was supplied by the Department of Infrastructure and Regional Development in December 2017, and comprised Vehicle Import Approvals issued from 2000 to 2017, and can be accessed here: [https://infrastructure.gov.au/department/ips/files/log/FOI\\_18\\_045.pdf](https://infrastructure.gov.au/department/ips/files/log/FOI_18_045.pdf). While this gives the appearance of a number of high value Historic Cars having been imported, many of those were only imported on a temporary basis, or were Australian cars returning from temporary overseas attendance at events. With the aid of various Historic Car club registrars and other experts, the position is as set out below.

The instance of the pre-war Bugatti<sup>37</sup> is most telling.

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<sup>35</sup> Available here: [https://infrastructure.gov.au/department/ips/files/log/FOI\\_18\\_045.pdf](https://infrastructure.gov.au/department/ips/files/log/FOI_18_045.pdf)

<sup>36</sup> Note that many of the higher value cars listed were either temporary imports to attend an Historic Car event, or returning Australian Historic Cars, which had attended a similar event overseas.

<sup>37</sup> All Bugatti data from Dr Bob King, author or co-author of a number of books on Bugattis, including "Bugattis in Australasia" and the DIRD FOI information..

In the 18 years before the LCT commenced, 12 Bugattis were imported. In the 18 years since, there were only 5<sup>38</sup>.

However, in the 18 year period since the LCT commenced, 22 were exported, resulting in a nett loss over that time of 17. The one way nature of the traffic is evident.

Similarly, with Vauxhall 30/98s<sup>39</sup>. 187 are known to survive of a total production of 536 cars made between 1919 and 1927. Australia once had 74, or 40% of the known survivors. 30 Australian cars have now been sold overseas, reducing our share to 23%. Since the advent of the LCT, none have been imported.

Vintage Bentleys<sup>40</sup>, famous because of multiple Le Mans victories in the 1920s – 21 have gone overseas in recent times and none of those coming in since 2000 have been permanent imports (apart from 2 cars which were inherited from overseas, and were therefore LCT exempt<sup>41</sup>). The LCT is to blame – since before the LCT, vintage Bentleys have commanded prices between A\$300k – 900k.

- 6.6 New Zealand only imposes GST on the importation of such cars. As a result, significant Historic Cars, and new replicas of Historic Cars made by the original manufacturer (see below at 9.1(g)) are able to be imported. One is a Bugatti Type 57 from the Baillon Collection auction, bought for NZ\$489,260, and to be the subject of a complete restoration in New Zealand<sup>42</sup>; another is one of the “new” 1957 Jaguar XKSSs. Both are tourist attractions in their own right<sup>43</sup>. Jaguar had wanted to

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<sup>38</sup> Data from DIRD, FOI 18-045 decision 13 December 2017, which listed all Vehicle Import Approvals granted for Historic Cars from 2000 to 2017. Cars known to have been temporary imports (eg to attend Historic Car events) removed.

<sup>39</sup> These were a 1920s 4 seater sports car renowned for high quality engineering, and performance. All Vauxhall data from Peter Latreille, and DIRD FOI information.

<sup>40</sup> All vintage Bentley data from Bentley Drivers Club Australia, and DIRD FOI information.

<sup>41</sup> Paragraph 7-10(3)(c) in the LCT Act provides an exemption for cars that qualify for a Customs duty concession under items 10, 11, 15, 18, 21 or 24 in Schedule 4 to the *Customs Tariff Act 1995*. Item 24 deals with goods that became the property of the importer under the will or the intestacy of a deceased person at a time when the importer was resident or established in Australia.

<sup>42</sup> See “A rare restoration of a barn-found Bugatti Type 57” October 31, 2015 at <http://www.themotorhood.com/themotorhood/2015/10/29/rare-restoration-1937-bugatti-type-57> accessed 31 January 2018.

<sup>43</sup> The arrival in NZ, and subsequent tour around the country, were the subject of articles in 6 different publications:

“Reborn cars revitalising Jaguar” <http://www.motoringnetwork.com/news/jaguar/reborn-cars-revitalising-jaguar/>

“Rebirth of a Legend: Jaguar XKSS” <http://www.themotorhood.com/themotorhood/2017/11/29/rebirth-of-a-legend-jaguar-xkss>

“We were very lucky to be offered the opportunity to own the car by John Edwards [managing director of Special Vehicle Operations at Jaguar], who was very keen to see one of the cars end up on this side of the world.”

“New’ 1957 Jaguar XKSS worth \$1.76m now home in New Zealand” <https://www.stuff.co.nz/motoring/news/93958262/new-1957-jaguar-xkss-worth-176m-now-home-in-new-zealand>

ensure that one of the new XKSSs “ended up on this side of the World”. The LCT meant it could not be Australia.

6.7 The LCT also prevents the reimportation of Historic Cars sold new in Australia and then exported.

Some examples:

- (a) In 1926, a Dr Feather, from Roma, Qld, bought a Bugatti Type 38. He successfully used it in competition, winning many times. He also owned and raced a Bugatti Type 37. In 1960, he received an MBE<sup>44</sup>, for services to the Roma community and hospital.

In 2010, his Type 38 was sold and exported to England (where the only import tax is VAT at 5%). That car has now been restored and is for sale for £400k. The GST on importation would be \$70,200; the LCT \$212,131.80 – total taxes on reimportation \$282,331.80, or 40.8% of the purchase price<sup>45</sup>. No-one in their right mind would think of doing this as, on importation, the car would still only be worth what was paid for it.

- (b) In 1960, Australia’s former Prime Minister, Malcolm Fraser, bought new a rare Lancia: a Flaminia Sport Zagato S1, which he owned until his death. It was displayed for a time at the National Motor Museum at Birdwood, in South Australia. His family subsequently sold it overseas. It is now for sale for €650k. GST and LCT to reimport would exceed \$400,000. Local enthusiast were interested in buying it to bring back to Australia but did not because of the LCT.
- (c) In 1963, Broughton Gordon Edgell, of the Edgell canned food company, bought a new Aston Martin DB5. This car went to the UK in about 2005. It was recently bought by an Australian, who regarded it as an important historical Australian car, and wanted to bring it back to Australia. He then discovered the LCT applied, which, with GST, would have meant a \$400k tax bill to get it into the country. Because of this, he is now not bringing it back and will keep it in England.
- (d) In May 2016, a Bugatti from long term Australian ownership was sold at the Bonhams Monaco sale, for €1.1m. Any buyer who wanted to repatriate this car to Australia would have to pay over A\$600k in LCT and GST<sup>46</sup>.

It is not suggested that the export of any of these cars would have been in breach of the PMCH Act, but they were nonetheless part of Australia’s historical fabric. It is regrettable that their re-importation is now out of the question.

“Jaguar XKSS joins Giltrap collection” <http://www.driven.co.nz/news/news/jaguar-xkss-joins-giltrap-collection/?ref=HNLNetwork>

“Jaguar XKSS coming to New Zealand” <http://www.newshub.co.nz/home/new-zealand/2017/06/jaguar-xkss-coming-to-new-zealand.html>

“Jaguar XKSS supercar touring NZ” <https://www.stuff.co.nz/motoring/99130310/jaguar-xkss-supercar-touring-nz>

<sup>44</sup> Member of the Most Excellent Order of the British Empire

<sup>45</sup> Assuming an exchange rate of A\$1 = GBP0.58, cost of freight and insurance to bring to Australia A\$10k.

<sup>46</sup> The only person who could reimport the car free of GST and LCT would be the vendor, and then only if no work had been done on the car while overseas.

- (e) One of the anomalies (discussed later) about the LCT is that while it applies to the reimportation of Historic Cars, it does not apply to motorcycles over 30 years old. That is why a very famous Vincent Black Lightning, used in Australia for record breaking and racing from the 1950s to the 1990s, when sold on Australia Day this year, at auction in Las Vegas, USA (setting a world record price for any motorcycle, ever, of over A\$1m), was able to be bought by an Australian to return to Australia<sup>47</sup>. Were it an Historic Car, no one would be able to reimport it, because of the LCT.

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<sup>47</sup> “The bike was purchased by telephone by an Australian and will be returned to the country where it became famous”- <https://newatlas.com/usd929000-vincent-black-lightning-new-world-record/53139/>. See also: <https://www.bonhams.com/auctions/24509/lot/131/> and <http://www.thedrive.com/sheetmetal/18016/1951-vincent-black-lightning-breaks-record-for-most-expensive-motorcycle-ever-sold> and <http://www.abc.net.au/news/2018-02-03/vincent-black-lightning-land-speed-record-motorcycle-auction/9390634> (The latter article is Attachment 7)

7. 2008 – Recognition of the Problem – Bipartisan Support. for Historic Car LCT Exemption

In 2008 the Rudd Government proposed an increase in the LCT from 25% to 33% of the value over the threshold.

This was referred to the Senate Standing Committee on Economics, to report by 26 August 2008.

By then the LCT had been in place for 9 years and the impact was such that 2 motoring organisations – AOMC<sup>48</sup> and SCCSA<sup>49</sup> - were prompted to make representations to the Committee about the adverse impact it was having.

Despite the Committee dividing along party lines on the central issue<sup>50</sup> – whether to increase the tax or not – both sides agreed that consideration should be given to exempting Historic Car imports from the LCT.

7.1 The Government Senators - Annette Hurley (Chair), Doug Cameron, Mark Furner, Louise Pratt, Mark Bishop, Steve Fielding [FFP] – said in the majority report:

*“The impact on historic vehicles*

2.54 *While it is a tiny segment of the market, there is an anomaly in the way historic vehicles are handled. Vehicles over two years old or imported over two years ago are exempt from LCT. Some classic and vintage car enthusiasts have drawn attention to the fact that a classic or vintage car which would be exempt if purchased within Australia attracts the LCT if it is imported for sale. There is no tax on selling the cars outside Australia. Over time this may lead to a loss of Australia's motoring heritage.*[\[32\]](#)

2.55 *There may be a case to provide an exemption for vehicles over a certain age, such as more than 30 years old. Such an exemption would address the imbalance and the tiny proportion of such vehicles likely to be imported is unlikely to have any significant impact on the economic effect of the tax or revenue generated.”*

7.2 **The Opposition Senators (Coalition) Dissenting Minority Report - Senators Alan Eggleston (Deputy Chair), the Hon. Eric Abetz, Barnaby Joyce and David Bushby** – said this:

*“Historic vehicles*

*Evidence was given from both the Association of Motoring Clubs of Victoria and the Sporting Car Club of South Australia that as the luxury car tax also applies to second-hand vehicles imported from overseas, it is having a negative impact on the maintenance of Australia's motoring heritage by discouraging people from bringing such historic vehicles back into Australia.*

*Recommendation*

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<sup>48</sup> Association of Motoring Clubs

<sup>49</sup> Sporting Car Club of SA

<sup>50</sup> [http://www.aph.gov.au/parliamentary\\_business/committees/senate/economics/Completed%20inquiries/2008-10/tlab\\_luxurycars\\_08/report/index](http://www.aph.gov.au/parliamentary_business/committees/senate/economics/Completed%20inquiries/2008-10/tlab_luxurycars_08/report/index)

*That the Henry Review of taxation examine the possibility of exempting imported vehicles over say 30 years of age from the Luxury Car Tax.”*

Despite this nothing was done.

## 8. Museums Exemption

- 8.1 The United Nations Educational, Scientific and Cultural Organisation (UNESCO) *Agreement on the Importation of Educational, Scientific and Cultural Materials* (the Florence Agreement) (Florence, 1950) and the Protocol to the Agreement (the Protocol) (Nairobi, 1976) were designed to reduce tariff and trade obstacles for educational, scientific and cultural materials. The Parties to the Florence Agreement agreed not to apply customs duties on materials listed in the five annexes to this Agreement. The Protocol further extended the duty free exemption to additional materials.<sup>51</sup>
- 8.2 Australia acceded to the Florence Agreement in 1990 and the Protocol in 1992. This was implemented in part by removing customs duty on the importation of “works of art or collectors’ pieces” by museums libraries and galleries for display where the institutions were Deductible Gift Recipients for taxation purposes. This is found in Item 7 to Schedule 4 of the *Customs Tariff Act 1995*.
- 8.3 However, it has been long settled that motor cars can constitute “works of art or collectors’ pieces” and therefore the imposition of the LCT on such vehicles saw Australia in breach of its Florence/Nairobi obligations.
- 8.4 In 2011, Treasurer Swan announced that Museums and Galleries would be able to import cars which were “works of art or collectors’ pieces” of any age for exhibitions, free of not only Customs duty, but also GST and LCT<sup>52</sup>. While this did not proceed at the time, Treasurer Hockey adopted and reintroduced the proposal in 2015, demonstrating the bi-partisan support for this reform, which now allows the importation of significant motor cars, including Historic Cars into the country, unhindered by tariff barriers<sup>53</sup>.

While it took some time for this to occur, in February 2017, the *Tax and Superannuation Laws Amendment (2016 Measures No. 2) Act 2017* was passed, amending the LCT Act to exempt the importation of such cars from the LCT.

### 8.5 The specific conditions are:

- (a) The importer is a public museum, gallery, library or institution that is registered for GST and endorsed as a DGR (Deductible Gift Recipient) under the *Income Tax Assessment Act 1997*;
- (b) The car is consigned to the importer;
- (c) The car is a work of art or collectors’ piece; and
- (d) The car is imported for the sole purpose of public display.

### 8.6 Work of Art or Collectors’ Piece

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<sup>51</sup> From the Explanatory Statement to Customs By Law No. 1022040

<sup>52</sup> Budget paper no 2 [http://www.budget.gov.au/2011-12/content/bp2/html/bp2\\_revenue-07.htm](http://www.budget.gov.au/2011-12/content/bp2/html/bp2_revenue-07.htm)  
[http://www.kmbba.com.au/pdf/afb2011\\_12.pdf](http://www.kmbba.com.au/pdf/afb2011_12.pdf)

<sup>53</sup> Although not the subject of a specific exemption for GST, Clayton Utz has confirmed that museums, galleries etc can import such items free of GST, as well as Customs duty and LCT.

There is little guidance as to what would satisfy this criterion, with the Explanatory Memorandum to the above Act stating that:

*“Whether a particular car qualifies for this LCT exemption depends on the nature of the car. It is expected that in most cases the reason that a gallery, museum or library will display a car is because of its cultural or historic significance. Given this, there is expected to be a very strong correlation between the types of cars that are imported by such institutions for this purpose, and the status of these cars as a work of art or collectors’ piece under item 7. However, the mere fact of public display is not of itself sufficient to determine that a particular car satisfies the conditions in item 7– it must be able to be objectively determined that the car is a work of art or collectors’ piece .”*

- 8.7 However, there is a vast body of settled law in the EU going back to 1985 where this has been spelt out, at least insofar as vehicles over 30 years of age are concerned, which was overlooked by the author of the Explanatory Memorandum. This is relevant because Australia is also a party to the *"The International Convention on the Harmonized Commodity Description and Coding System"*<sup>54</sup>, as are the EU countries, and this mandates the consistent use of classifications for imports and exports. Put another way, if a car is a “work of art or collectors’ piece” in Europe, it should be here too.
- 8.8 Where a motor car constitutes a “work of art or collectors’ piece”, the correct tariff classification commences with 9705... and not 8703... which relates to second hand cars.
- 8.9 The leading case is *JD Classics Holdings Limited v. The Commissioners for Her Majesty’s Revenue and Customs* LON-2009-7069<sup>55</sup>, which followed the 1985 case of *Erika Daiber v Hauptzollamt Reutlingen (Case 200/84)*.

Since 2009, the European Commission has set out specific guidelines to national customs authorities, which confirm *“that there is a presumption of “historical interest” in favour of vehicles which are in their original state, without substantial changes to the chassis, steering or braking system and engine, at least 30 years old, and of a model or type which is no longer in production.*<sup>56”</sup>

Following the JD case, the UK’s HMRC Notes to Tariff Item 9705 have been amended to say that provided a vehicle is in original condition, over 30 years of age and no longer in production, then it is presumed to satisfy the prerequisite conditions for 9705 of rarity, not being used for its original purpose, being the subject of transactions outside the usual trade in similar utility vehicles, and of greater value<sup>57</sup>.

At the very least, this provides additional guidance to that in the Explanatory Memorandum.

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<sup>54</sup> <http://www.wcoomd.org/en/topics/nomenclature/overview/what-is-the-harmonized-system.aspx>

<sup>55</sup> The JD case was about imports of Jaguars – XK120s, 140s, and 150s, and 6 cylinder E Types, a Lotus Elite, an Austin Healey 3000, and an AC Cobra, made between 1954 and 1967. .

<sup>56</sup> From the summary of the case by the lawyers for JD Classics Goodman Derrick, at [https://www.gdlaw.co.uk/site/news/all-news/VAT\\_ruling.html](https://www.gdlaw.co.uk/site/news/all-news/VAT_ruling.html).

<sup>57</sup> The full note is here: <https://www.trade-tariff.service.gov.uk/trade-tariff/chapters/97>

## 9. Impact of the Historic Car LCT on Business and Jobs

### 9.1 The effect of the LCT on Historic Car imports is not confined to Australia's motoring heritage.

There is a world wide boom in interest in and economic activity associated with Historic Cars. To illustrate:

- (a) The annual contribution to the UK economy of the old car hobby is £5.5bn.
- (b) Internationally there are a significant number of major historic motoring events which have become tourist attractions in their own right. One is Techno Classica Essen which in 2017, covered 120,000 sq m, or 30 acres, in Essen, Germany, and attracted over 185,000 visitors, from 41 countries.
- (c) Events in the UK include Beaulieu Autojumble<sup>58</sup>, NEC<sup>59</sup>, the Goodwood Revival and Festival of Speed<sup>60</sup> and events at the Royal Palaces, such as the Concours of Elegance, at Hampton Court Palace<sup>61</sup>.
- (d) The USA has similar events, such as the annual Pebble Beach Concours<sup>62</sup>, Amelia Island, Florida Concours, and Hershey Swap Meet<sup>63</sup>, which covers 85 acres, is staffed by 700 volunteers, and in 2017 attracted 250,000 visitors from around the world, with 1000 cars for sale. The significance the USA places on Historic Cars can be seen from the Historic Vehicle Association<sup>64</sup> website. It has over 375,000 members.
- (e) In 2013, the value of sales of classic vehicles at auction in the USA was US\$1.3bn. At the Scottsdale (Arizona, USA) Collector Car Auction Week, just held, over 300,000 people visited, and 3176 cars were sold with a combined value of US\$247m<sup>65</sup>.
- (f) Subscribers to Foxtel TV services will be well aware of the plethora of programs devoted to classic cars, be they to do with racing, restoration, auctions etc.

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<sup>58</sup> <https://www.beaulieu.co.uk/events/international-autojumble/>

<sup>59</sup> <http://www.necclassicmotorshow.com/>

<sup>60</sup> Festival of Speed <https://www.goodwood.com/flagship-events/festival-of-speed/>; Revival <https://www.goodwood.com/flagship-events/goodwood-revival/>

<sup>61</sup> <http://concourseofelegance.co.uk/> The Concours of Elegance remains unique in the UK as the only automotive event to be held at a royal venue each year, having previously been hosted at Windsor Castle, St James's Palace and the Palace of Holyroodhouse. In 2014 and 2017, the Concours headed to Hampton Court Palace, quickly establishing itself as a favourite for visitors, as the perfect setting for some of the world's most incredible vehicles.

<sup>62</sup> <https://www.pebblebeachconcours.net/>

<sup>63</sup> <https://www.hersheyaaca.org/index.html>; <https://blog.caranddriver.com/treasure-hunting-at-hershey-the-worlds-largest-old-car-swap-meet/>; <http://www.oldercarsweekly.com/news/2017-aaca-fall-meet-hershey>

<sup>64</sup> Which has over 375,000 members: <https://www.historicvehicle.org/>

<sup>65</sup> [https://www.hagertyinsurance.co.uk/articles-and-resources/all-articles/2018/01/28/hagerty-bucket-list---scottsdale?utm\\_source=SFMC&utm\\_medium=email&utm\\_term=DOUG\\_YOUNG@IINET.NET.AU&utm\\_content=18\\_Jan\\_UKNews](https://www.hagertyinsurance.co.uk/articles-and-resources/all-articles/2018/01/28/hagerty-bucket-list---scottsdale?utm_source=SFMC&utm_medium=email&utm_term=DOUG_YOUNG@IINET.NET.AU&utm_content=18_Jan_UKNews)

- (g) Such is the demand for the iconic sports racing cars from the 1950s and 1960s that original manufacturers are making new versions of old cars, and selling them for in excess of £1m. Jaguar 1957 XKSS (9 at £1m, all sold) and Jaguar 1961 Lightweight E Type (6 at £1.2m, all sold); the Aston Martin 1960 DB4GT (25 cars at £1.5m, all sold). The Aston Martin factory said this new production line created 25 new jobs<sup>66</sup>. This is a reflection of the value of original such cars now. Australia was once home to both an original Jaguar XKSS and a Jaguar Lightweight E Type, both now valued at over A\$10m<sup>67</sup>. Neither could ever be brought back now because of the LCT.

Australia holds only one such world class event - Motorclassica<sup>68</sup> - which includes The Australian International Concours d'Elegance, and other activities conducted over 4 days in Melbourne each year. Visitors spend \$6.9m at the event, and it delivers an economic benefit to the Melbourne economy of \$9.2m. The attendees expect a post-sale spend of over A\$104m on their classic cars and motorcycles.

This heightened interest in classic cars of all types has led to an appreciation in value<sup>69</sup> and many once-humble offerings are now priced above the LCT threshold. That said, the market is volatile, with busts<sup>70</sup> as well as booms – but the overall trend is up.

## 9.2 The LCT is preventing Australian businesses from fully participating in this world wide boom.

Most of the Australian businesses devoted to Historic Cars have been around for decades, well before the LCT was introduced. There is no evident growth in the sector. However, in the countries with significant Historic Car movements, there are many thriving new businesses – a quick review of any of the numerous overseas car magazines shows them filled with articles about and advertisements for them.

Attached are the following letters from various businesses affected by the LCT on Historic Cars:

- (a) Motorclassica 14 December 2017 Attachment 2
- (b) Sleeping Beauties 13 December 2017 Attachment 3
- (c) Brooklands Classic Cars 29 December 2017 Attachment 4
- (d) Automobili Rapide 10 December 2017 Attachment 5

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<sup>66</sup> BBC East of England Video -

[https://www.facebook.com/bbcnewseast/videos/1666291363451736/?multi\\_permaLinks=10156015946998665&notif\\_id=1517381779170195&notif\\_t=group\\_highlights](https://www.facebook.com/bbcnewseast/videos/1666291363451736/?multi_permaLinks=10156015946998665&notif_id=1517381779170195&notif_t=group_highlights)

<sup>67</sup> See eg XKSS value <https://www.hagerty.com/apps/valuationtools/1957-jaguar-xkss> (31 January 2018) and <http://www.dailymail.co.uk/news/article-4142718/Ultra-rare-Jaguar-sells-record-6MILLION.html> (acc. 31 January 2018) indicating the former Australian car sold for £6m in January 2017. It won the Australian GT Championship in 1963, when owned by Bob Jane. The values are due to their rarity: Only 12 Jaguar Lightweight E Types were made, and only 16 XKSSs, which were converted from unsold Jaguar D Types which won Le Mans in 1955, 1956 and 1957.

<sup>68</sup> <https://motorclassica.com.au/>

<sup>69</sup> See eg <https://www.supercars.net/blog/top-100-cars-auction/>

<sup>70</sup> See eg <https://www.zerohedge.com/news/2018-01-18/recovery-vintage-car-prices-crash-more-20089>, (accessed 31 January 2018) indicating the prices for vintage cars are down 17% since August 2015.

(e) Up the Creek<sup>71</sup> 5 February 2018.

The letter from Wolf Grodd of Sleeping Beauties discloses the effect that the LCT on Historic Cars is having on one business alone.

He has listed 12 cars that clients want to import and for him to restore. They are worth over \$11m as is. The LCT on them would be A\$3.5m, with a further GST component of \$1.1m.

The restoration work cost he would charge for these restorations would be \$4.3m. One car alone – an historically significant Mercedes 650K from World War 2 – would cost A\$1m to restore, and in doing so would employ 4 people full time for 3 years.

Once again, the UK recognises the value in employment in this sector, and in 2014, a new apprenticeship scheme was launched in Vehicle Restoration<sup>72</sup>.

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<sup>71</sup> This business was the subject of a number of media articles and programmes about a world-first in reconstructing, in collaboration with the CSIRO, the otherwise irreplaceable engine in the World's only surviving 1914 Grand Prix Delage – see “Delage Type-S: The 103-year-old grand prix car saved by a 3D printer” - <http://www.abc.net.au/news/2017-03-27/saving-the-last-delage-type-s-grand-prix-car/8310958> ; “3D technology keeps a classic vintage car on the road: - <http://www.abc.net.au/7.30/3d-technology-keeps-a-classic-vintage-car-on-the/8391562>; “Digitally cloning a 1914 Delage Type S engine block” - <https://www.csiro.au/en/Research/MF/Areas/Metals/Lab22/Delage>

<sup>72</sup> <http://www.fbhvc.co.uk/about-us/news/article/14/fbhvc-launches-europes-first-apprenticeship-in-historic-vehicle-restoration/> ; <http://www.afo.sscalliance.org/frameworks-library/index.cfm?id=FR02525> ;

## 10. Survey Methodology and Results

A more complete picture of what the LCT on Historic Car imports is costing all Australians is afforded by the survey we conducted..

This was developed and sent to 1,000+ members. In excess of 400 responses were received. The survey introduction and questions posed are as follows:

*“Introduction*

*Historic Car Tax Reform Group - Seeking the Removal of LCT on Cars Older than 30 Years*

*We are a committee, supported by the R.A.C.V., and a range and variety of car clubs, who are seeking to remove the luxury car tax for cars older than 30 years.*

*We are seeking to identify the amount of economic activity being denied to Australian business through the luxury car tax preventing imports, by determining (a) the average spend on cars older than 30 years wherever located in the world, and (b) the number of cars older than 30 years that would be imported but for the luxury car tax.*

*Thank you for your assistance.*

- 1. How many cars do you own that are greater than 30 years or older?*
- 2. Of these historic cars, how many would be worth more than the Luxury Car Tax (LCT) threshold of approx. \$65,000?*
- 3. Where are the cars above the LCT threshold located?*
- 4. How much have you spent (A\$) on each of the cars over the last 5 years in Australia / overseas, inclusive of repairs, restorations, maintenance, storage, costs while in use (i.e., accommodation, fuel, travel), etc.?*
- 5. If the LCT was removed from the import of cars over 30 years old, how many would you import: (a) of your own cars, and (b) of other cars you may have seen for sale overseas.*
- 6. If you are prepared to answer questions please include your name and the best contact number.”*

10.1 As can be seen above the survey was limited to five questions and took on average less than five minutes to complete. This indicates a well structured survey.

10.2 We have undertaken a number of assessments, conducted by a qualified statistician, on the data, inter alia, as follows:

1. *De-minimis* duplicate IP addresses
2. No material outliers which skewed summary results
3. Data compilation and computations valid

10.3 Set out below are the survey Conclusions, and subsequently the summary data being the source, and compilations to derive the Conclusions.

<b>Conclusions</b>
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	410 surveys completed (some questions skipped)	
	1307 cars covered	
	867 cars over LCT threshold	
\$	30.32 million spend on	1,257 cars
\$	24.19 K average spend over 5 years	
\$	4.84 K average spend per car per year	
	676.0 cars would be imported if LCT not in existence	
\$	1,635,510 extra GST paid if additional cars imported	

10.4 The survey completed by 410 enthusiasts has identified:

- (a) They would import 676 Historic Cars were it not for the LCT.
- (b) They own, here and overseas, 867 cars worth more than the LCT threshold, on which they have spent \$24,190 per car over the last 5 years, or a total of \$20,972,730.
- (c) The average amount spent per car per year has been \$4,838.
- (d) Were the LCT removed and these cars imported, the Government would earn at least \$4,394,000<sup>73</sup> GST on the importation, and, if owners spent similar amounts on the cars, a further \$1,635,510 in GST on the work performed over 5 years.

See Table at Appendix 1.

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<sup>73</sup> This is a minimum number, assuming the vehicles had a value of only \$65,000 and 10% GST was payable only on that. Many cars would be worth more than \$65k, often multiples of it.

## 11. LCT Receipts from Historic Car Imports

- 11.1 Pursuant to an MoU<sup>74</sup> between the ATO and the DHA<sup>75</sup>, DHA collects the LCT on private imports of motor vehicles, including Historic Cars. The ATO describes the amount collected by the DHA as “small”<sup>76</sup>.

The table below shows total LCT receipts from all sources; collected by the DHA (Customs), and the amounts attributable to Historic Cars.

**Table: LCT receipts by ATO, Customs, and amounts attributable to Historic Car imports**

Year	Total LCT receipts \$m	ATO collections \$m	Customs collections (incl. HC Imports) \$m	Historic Car (HC) Imports collections \$m	Historic Car LCT - % of total LCT receipts
2001-02	221	220	1		
2002-03	270	269	1		
2003-04	333	332	1		
2004-05	298	279	1		
2005-06	321	318	3		
2006-07	370	368	2		
2007-08	447	444	3	1.2	0.27%
2008-09	376	373	3	1.3	0.35%
2009-10	482	479	3	0.7	0.15%
2010-11	479	475	4	1.9	0.4%
2011-12	441	437	4	0.9	0.2%
2012-13	426	422	4	2.3	0.5%
2013-14	463	460	3	0.9	0.19%
2014-15	525	522	3	0.8	0.15%
2015-16	609 (602)	606	3	1.1	0.18%
2016-17	(650)	NK	NK	1.3	0.2%
2017-18	E650 (MYEFO 680)	NK	NK	1.1	0.17%
Totals 2007-18	5,548		30 approx	13.7 (from actual, unrounded numbers)	0.24%

Data from: 1. [http://data.gov.au/dataset/taxation-statistics-2014-15/resource/847e2b92-14ff-4eb-8f2c-cf4dal3d024e?view\\_id=2f99cdd-f895-4b8b-95cc-babcf553fad9](http://data.gov.au/dataset/taxation-statistics-2014-15/resource/847e2b92-14ff-4eb-8f2c-cf4dal3d024e?view_id=2f99cdd-f895-4b8b-95cc-babcf553fad9) accessed 22/01/18; 2. 2017-18 Budget paper No 1, Statement No 5 5-15; Dec 2017 MTEFO; and 4. DHA on 4 December 2018.

<sup>74</sup> Memorandum of Understanding

<sup>75</sup> Formerly, Immigration and Border Protection (Customs)

<sup>76</sup> <https://annualreport.ato.gov.au/02-performance-reporting/operational-performance/revenue-collection> accessed 22/01/18

This shows the amount collected on Historic Car Imports from 2007-2018 has remained relatively constant at an average of \$1.2m/year, representing 0.25% of total LCT raised (and around 1/3 of the “small amount” collected by the DHA).

- 11.2 Until recently awareness was low among even well informed enthusiasts that the LCT applied to Historic Car imports, and, were they aware of the LCT impost, a number would not have bought the vehicles they did. The LCT is generally thought to be applicable to sales of new, luxurious cars. Many, and probably most, Historic Cars are anything but luxurious by modern standards.

Two examples:

- (a) In 2009 an Adelaide medical specialist bought a 1901 De Dion Bouton at auction in the UK<sup>77</sup> for £65,300 (AU\$116,179) and then imported it to Australia. He sought a Private Binding Ruling from the ATO that the importation be LCT exempt as the car could not even be registered, given it had no effective lights, brakes, windshield, horn, brake lights, turn indicators, any weather protection at all, etc<sup>78</sup>. He was disappointed when PBR 011239450766 issued and he had to pay combined LCT and GST of almost \$40,000.
- (b) In 2015, a Qld based retired engineer bought a 1935 Alvis 3.5 litre Charlesworth-bodied Drop Head Coupe at auction in the UK for £74,000<sup>79</sup>. No one was more surprised than he to discover, on importation, a hefty LCT liability.

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<sup>77</sup> <https://www.bonhams.com/auctions/17658/lot/127/>

<sup>78</sup> A copy of the Bonhams Auction Catalogue Entry for the vehicle, including a photograph showing it is more like a horse drawn vehicle than a car, let alone one with any claim to being luxurious, is Attachment 8.

<sup>79</sup> <http://classiccars.brightwells.com/viewdetails.php?id=5695>

## 12. Taxation Barriers to Importation: Australia vs The Rest

- 12.1 From the 1970s, until 2000, Australia joined with the rest of the Historic Car world in lowering barriers in their importation. From then on, all such countries removed or reduced Customs Duty on their importation, and, where a consumption tax (such as the UK's VAT<sup>80</sup>) was payable, the rate was reduced. Currently, the UK's default VAT rate is 20%, but on imports of Historic Cars, it is only 5%, and no Customs Duty is levied.
- 12.2 For Historic Cars valued at more than the LCT threshold, Australia has by far the highest import taxes of any comparable country or trading bloc, such as the EU. Looking at various countries (with the value being the landed cost, including freight and insurance):
- (a) Australia
    - (i) Duty nil
    - (ii) GST 10% of landed cost
    - (iii) LCT at 33% on component over LCT threshold (currently A\$65,094). LCT value is landed cost<sup>81</sup> plus GST.
  - (b) New Zealand<sup>82</sup>
    - (i) Duty nil
    - (ii) GST 15%
  - (c) USA<sup>83</sup>
    - (i) Duty 2.5%,
    - (ii) No GST etc. Some States may impose local taxes.
  - (d) Canada<sup>84</sup>
    - (i) Duty – from Australia, nil, other countries not in Trade Agreement, 6.1%
    - (ii) GST 5%

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<sup>80</sup> Value Added Tax

<sup>81</sup> Landed cost is (generally) purchase price overseas plus freight to bring to Australia, and insurance for the journey.

<sup>82</sup> <https://www.customs.govt.nz/globalassets/documents/fact-sheets/fact-sheet-29-advice-on-private-motor-vehicle-imports.pdf> ; <https://www.customs.govt.nz/business/tariffs/working-tariff-document/>

<sup>83</sup> <https://www.cbp.gov/trade/basic-import-export/importing-car>

<sup>84</sup> <http://www.cbsa-asfc.gc.ca/trade-commerce/tariff-tarif/2018/01-99/ch87-2018-eng.pdf>;  
<http://www.ezbordercrossing.com/the-inspection-experience/import-a-vehicle/importing-vehicle-from-us-to-canada/>;  
<https://www.retailcouncil.org/quickfacts/taxrates>

- (e) UK<sup>85</sup>
  - (i) Duty nil
  - (ii) VAT 5% (concessional rate for cars over 30 yo. Normal VAT 20%)
- (f) EU<sup>86</sup>
  - (i) Duty zero
  - (ii) VAT/GST – varies by individual country, from 5-7%, but examples are:
    - (A) Germany 7%<sup>87</sup>
    - (B) Netherlands 6%<sup>88</sup>

### 12.3 Graphs

These graphs illustrate the way Australia compares with other countries, and why in particular high value Historic Cars – some of which sell for \$10m or more, can never now be brought to Australia.

Set out below are two graphs that compare the taxes payable on the importation of eight hypothetical vehicles to five countries (USA, Canada, UK, NZ and Australia) and one economic region (EU), four valued between \$500,000 – \$10m and four between \$70,000 – \$200,000. Taxes include consumption taxes (e.g., GST, VAT, etc.), customs duties and specific motor vehicle related import taxes (e.g., LCT).

The underlying assumptions as to taxes on importation have been sourced from publically available information as set out in Section 1 above.

The conclusions are as follows:

- (a) Australia, for any Historic Car value, requires the importer to pay the most tax;
- (b) Australia, for Historic Cars valued at \$0.2m, requires the importer to pay more than double the tax of the next most taxed country, which is New Zealand; and
- (c) For a Historic Car valued at \$0.1m Australia requires the importer to pay in excess of 20% of the total vehicle value in tax, this compares to the lowest tax country which requires less than 5% of the value to be paid in tax

At any level, using any assumption, Australia is an outlier and proffers a hostile tax regime.

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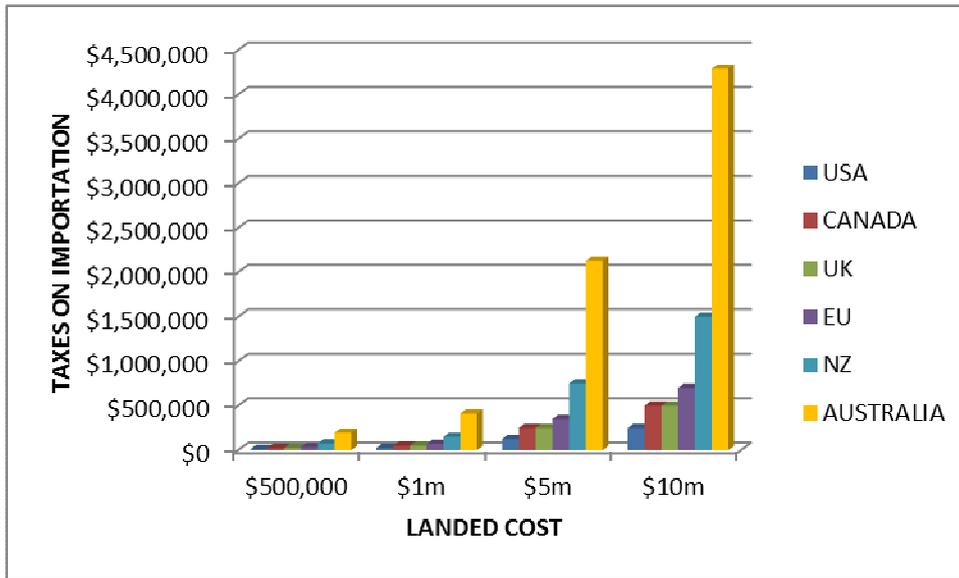
<sup>85</sup> <https://www.tradeclassics.com/how-do-i-import-a-classic-car-into-the-uk/> ; <https://mycarimport.co.uk/import-process/import-taxes/>

<sup>86</sup> <https://www.carfax.eu/article/importing-american-classic-cars.html> ;

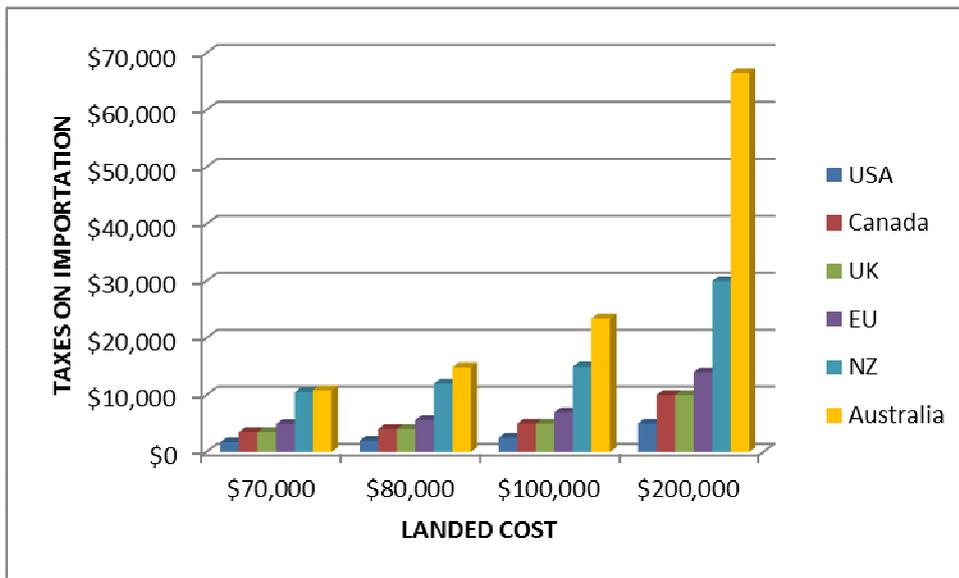
<sup>87</sup> <https://www.howtogermy.com/pages/import-car.html>

<sup>88</sup> <http://sclrotterdam.com/en/consumer/classic-car-oldtimer-import/duties-taxes-and-vat-oldtimer-import>

Graph 1 – Vehicles valued between \$0.5m – \$10m



Graph 2 – Vehicles valued between A\$70k – A\$200k



### 13. Policy Considerations

13.1 We have been unable to find any policy statement underlying, or otherwise explaining why the LCT is imposed on the importation of Historic Cars.

13.2 Generally, there have only been 2 justifications proffered for the LCT, both relating exclusively to new cars. They are: to protect Australian manufacturing industry, and, more recently, when people are buying expensive new cars, to encourage them to buy lower emission cars. Looking at each in turn:

(a) Protecting the Australian manufacture of new cars

This was plainly the case when first introduced in the 1980s as a higher WST (Wholesale Sales Tax) as it was pitched at just above the most expensive offerings from the major manufacturers. At that time it applied exclusively to new imported cars. However, over time it has become just another tax on expensive cars as the price has increased faster than the LCT threshold has been raised.

It had no application to Historic Cars. That changed, when, without explanation, the LCT Act applied it not only to new cars sold in Australia, whether locally made or imported, but also to imported cars of any age.

(b) Emission considerations

No one makes a decision on what type of Historic Car to buy based on its exhaust emissions. While Australia has had emission rules since the 1970s<sup>89</sup>, none of most efficient of them would satisfy the qualification to be a low emission vehicle for LCT purposes.

13.3 Moreover, the policy statements that exist in regard to the LCT generally describe, as the intended outcome, the exact converse of the actual impact on imports of Historic Cars.

To illustrate, in the Explanatory Memorandum<sup>90</sup> to the LCT Act, Treasurer Costello said:

*“The new luxury car tax replaces the existing 45% wholesale sales tax (WST) that applies to luxury cars and will ensure that, following the introduction of the goods and services tax (GST), the value of luxury cars will fall in price by about the same amount as a car just below the luxury car tax threshold.”*

While this was true for new cars, it had the opposite effect on the importation of Historic Cars, as it created a taxation liability that had not previously existed, and increased, rather than caused “a fall in price” for these cars.

13.4 There is also a misunderstanding of the effect of the LCT on these cars. It was understood by the Senate Standing Committee on Economics 2008 Report<sup>91</sup> into the proposed increase in the LCT from 25% to 33%, as it stated<sup>92</sup>:

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<sup>89</sup> <https://infrastructure.gov.au/roads/environment/emission/index.aspx> acc. 31 January 2018

<sup>90</sup> ISBN: 0642 391742

<sup>91</sup> [https://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Economics/Completed\\_inquiries/2008-10/tlab\\_luxurycars\\_08/report/index](https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Economics/Completed_inquiries/2008-10/tlab_luxurycars_08/report/index) accessed 13 December 2017.

*“While it is a tiny segment of the market, there is an anomaly in the way historic vehicles are handled. Vehicles over two years old or imported over two years ago are exempt from LCT. Some classic and vintage car enthusiasts have drawn attention to the fact that a classic or vintage car which would be exempt if purchased within Australia attracts the LCT if it is imported.”*

However, when the Better Tax Re:Think Taxation Discussion<sup>93</sup> White Paper was released in March 2015, it erroneously stated<sup>94</sup> that:

*“Some stakeholders have raised concerns that the LCT falls mainly on imported cars originating from a limited number of jurisdictions and is therefore a barrier to trade. However, the LCT applies to all cars purchased in Australia, regardless of where the car is manufactured and therefore does not discriminate against imports.”*

While this statement was true for new cars, it was not for Historic Cars imported, as only they, and not identical old cars sold in Australia, are subject to the LCT. As has been pointed out elsewhere, the LCT represents almost a complete barrier to the importation of more expensive Historic Cars.

### 13.5 The Museums Sector

The importance of allowing the public to see historic (and more recent vehicles) that constitute “collectors items” or “works of art” has recently been legislatively recognised<sup>95</sup> by permitting museums, galleries and libraries to import them, free of GST and LCT, provided the institutions are registered for GST and have been endorsed as DGRs (Deductible Gift Recipients). The only stipulation is that they be imported solely for public display and not used on the road.

It is indisputable that Historic Cars valued at over the LCT threshold satisfy the “collectors’ items” or “works of art” criteria. The increase in their value over decades is attributable precisely to that fact – collectors desire them. As pointed out elsewhere, were an LCT exemption to be granted for the import of Historic Cars that could actually be driven, there are significant ongoing economic (and other) benefits – far more than for cars imported for public display only.

### 13.6 Protection of Moveable Cultural Heritage laws<sup>96</sup>

The strongest statement of policy applicable to Historic Cars is embodied in these laws. While only applying to artefacts that have some connection to Australia, the thrust is that they are valuable and should be retained in this country.

The PMCH Act commenced in 1986, but has been ineffectual at preventing the export of Historic Cars. Under the new scheme proposed by Shane Simpson AM<sup>97</sup>, he urges:

<sup>92</sup> Ibid. at 2.54

<sup>93</sup> [http://bettertax.gov.au/files/2015/03/TWP\\_combined-online.pdf](http://bettertax.gov.au/files/2015/03/TWP_combined-online.pdf), accessed 13 December 2017.

<sup>94</sup> Ibid. Clause 9.5, para 6.

<sup>95</sup> *Tax and Superannuation Laws Amendment (2016 Measures No. 2) Act 15 of 2017*

<sup>96</sup> *Protection of Movable Cultural Heritage Act 1986* (PMCH Act)

<sup>97</sup> *Borders of Culture: Review of the Protection of Movable Cultural Heritage Act 1986* at Part 41.

*“Indeed, the best way of promoting the regime would be a couple of high profile actions for the seizure and return of forfeit cultural material. It would give loud warning to the foreign auction houses and collectors as well as the local sellers who are prepared to undertake illegal export for personal profit.”*

Clearly the intent is to forcibly repatriate to Australia articles of significance to Australia. Assuming, of course, that they will not be returned voluntarily.

It is here that the LCT is not only at odds with the policy; it actively subverts it.

One example: In 1964, prominent Australian Broughton Gordon Edgell, of the Gordon Edgell canned goods company, bought new an Aston Martin DB5. Around 1995, the car was exported to England. It has recently been purchased by an Australian resident with the intention of returning it to Australia. However, he is not prepared to pay the estimated \$400,000 in GST and LCT to do so.

It is not suggested that this car was exported in contravention of the PMCH Act. But this instance serves to illustrate the point that the LCT Act obstructs the objectives of the PMCH legislation. It therefore fails on 2 grounds: it raises no tax, and prevents the repatriation of a car once owned by a significant Australian.

Contrast this with the example of the Vincent Black Lightning motorcycle recently auctioned in Las Vegas<sup>98</sup>. Sold for a world record price, the Australian purchaser intends to return the bike to Australia – realistically possible as LCT does not apply to motorcycles.

Contrast this with the Vincent Black Lightning motorcycle just auctioned in for a world record price, and bought by an Australian to bring back to Australia – realistically possible because the LCT does not apply to motorcycles..

Such cars can only be reimported free of GST and LCT if they are imported by the same person who exported them and neither a spanner nor a lick of paint have touched them while overseas.

### 13.7 Disconnect between stated target of a tax and the real objective

As outlined earlier, in the 1980s, when the first luxury car tax was introduced (as a WST surcharge) on new cars above a price threshold, it only applied to new cars that were luxurious – and all were new imports. There is still some connection between price and luxury with new cars.

But from when the LCT Act commenced in 2000, by applying it to imports of cars of any age whose value exceeded the threshold, calling them “luxury” cars became almost an exercise in absurdity.

The Commonwealth has a problem with how it is perceived by enthusiasts over the application of LCT to Historic Car imports.

Most Australian car enthusiasts – and there are over 700,000 of them – are unversed in the often obscure ways legislation works. It can sometimes work in an Alice-in-Wonderland kind of way- “... a word ...means whatever I choose it to mean”<sup>99</sup> rather than giving it its ordinarily accepted

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<sup>98</sup> See Attachment 7.

<sup>99</sup> “When I use a word,” Humpty Dumpty said, in rather a scornful tone, “it means just what I choose it to mean—neither more nor less.” “The question is,” said Alice, “whether you *can* make words mean so many different things.” “The question is,” said Humpty Dumpty, “which is to be master—that’s all.”- LEWIS CARROLL (Charles L. Dodgson), *Through the Looking-Glass*, chapter 6, p. 205 (1934). First published in 1872.

meaning. They do not understand, for example, that neither the title of an Act, nor the headings within it, can be used in a statutory interpretation sense unless a specific provision is ambiguous. In particular, they fail to grasp how what is virtually a horse-drawn vehicle with a small engine can be counter-intuitively designated a “luxury car” and then taxed because of it.

The picture of the 1901 De Dion Bouton in Attachment 8<sup>100</sup> illustrates this point.

Enthusiasts who buy Historic Cars overseas have all heard of the LCT but most have no idea it could apply to a vehicle with none of the modern conveniences like power steering, flashing indicators, heating and demisting systems, windscreen wipers (and in some cases, even a windscreen) power brakes, air conditioning and so on. When they discover this as their old car enters the country feel they have been misled.

It is a matter for the Commonwealth as to how it names things, but to decree that something is “luxurious” (when it is the antithesis of luxurious) and then tax it on the basis of the ascribed “luxury” would appear to needlessly alienate those enthusiasts.

The disconnect between “luxury” and Historic Cars was starkly pointed out in Mr John Burt’s testimony to the Senate in 2008 when he said:

*“I would hardly call them luxury: they are mongrels to drive, they are not comfortable, they are certainly not pleasant and they are not enjoyable. But we have a passion for them, and they attract the tax”.*

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<sup>100</sup> Discussed at 10.6

#### 14. Inconsistent Application of Customs Duty, GST and LCT on Reimportations

The lack of policy consistency also is reflected in the way reimportations of cars are treated.

[Preliminary Note re LCT Provisions – while the balance of this Part commencing at 14.1 reflects the law as it currently stands, the LCT provisions regarding vehicles reimported after service, repair or refurbishment overseas may be about to change.

On 8 May 2018 at p.38 of Budget Paper No 2, Treasurer Scott Morrison announced that

“The Government will remove luxury car tax on cars re-imported into Australia, following a refurbishment overseas, from 1 January 2019”.

The exposure draft of the provisions to implement this were in a Schedule to the *Treasury Laws Amendment (2018 3 Measures No. 5) Bill 2018*.

They were then moved to Schedule 6 of the *Treasury Laws Amendment (Making Sure Multinationals Pay Their Fair Share of Tax in Australia and Other Measures) Bill 2018*<sup>101</sup>.

The Bill had its second reading in the House of Representatives on 20 September 2018, and was referred to the Senate Economics Legislation Committee on 18 October 2018; report due 03 December 2018.

However, the Committee sought and was granted an extension by when it was to report to 11 February 2019.

An important restriction on the application of this provision is that “the ownership of the car has not changed in the period beginning immediately before the car was exported and ending at the time it is returned to the indirect tax zone”.

This means the LCT will still apply to the reimportation of any car where the ownership changed after export – meaning, for example, that the ex-Gordon Edgell Aston Martin DB5, bought by an Australian in London with the intention of repatriating it to Australia, will still be subject to the LCT. See 6.7(c).]

##### 14.1 Customs, LCT and GST treatment on the reimportation of Historic Cars

There are 3 separate tax regimes applicable.

1. Customs Duty<sup>102</sup>
2. GST (Goods and Services Tax)<sup>103</sup>, and
3. LCT (Luxury Car Tax)<sup>104</sup>

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<sup>101</sup> [https://parlinfo.aph.gov.au/parlInfo/download/legislation/bills/r6198\\_first-reps/toc\\_pdf/18207b01.pdf;fileType=application/pdf](https://parlinfo.aph.gov.au/parlInfo/download/legislation/bills/r6198_first-reps/toc_pdf/18207b01.pdf;fileType=application/pdf)

<sup>102</sup> Imposed by the *Customs Act 1901* and the *Customs Tariff Act 1995* (CTA). While not relevant to the reimportation of Historic Cars (because of the blanket 30 years old exemption) the wording used in the GST and LCT Acts defining “unchanged condition” derive from here.

<sup>103</sup> Imposed by *A New Tax System (Goods and Services Tax) Act 1999* (GST Act)

## Overview

One of the conditions for a possible exemption is that the car be reimported in “unchanged condition” (ie, unchanged from how it was on leaving the country). The particular condition is expressed as being returned:

*“without having been subject to any treatment, repair, renovation, alteration or any other process since their export”.*

These words appear in each of the 3 regimes<sup>105</sup>. If an enthusiast takes his vintage car overseas to participate in an international Historic Car event, and while away, it breaks down, and repairs are effected, then on the face of it, he or she loses the exemption and Customs duty, GST and LCT are payable when the car is returned to Australia.

(a) Inconsistency No 1.

However, the words are interpreted differently for Customs duty purposes from how they are treated under the GST and LCT provisions. For Customs duty purposes only, a By-Law was issued saying in part that a repair for preservation or maintenance of the car does not remove the exemption and it is not really a “repair” for the purposes of the condition.

There is no similar qualification under within the GST or LCT Acts, so any running repair while overseas still triggers both GST and LCT liability on reimportation, despite the Customs duty exemption.

(b) Inconsistency No 2.

If a car is subjected to more substantial renovation or repair work overseas, such that its condition is improved, the tax treatment on return depends on whether it was exported for the purpose of that work, or whether the decision to perform the work was made after the car left Australia.

- (i) Where the export was for the purpose of renovation or repair, there is partial relief for both Customs duty<sup>106</sup> and GST<sup>107</sup> purposes – duty is charged on the cost of the renovation work, and GST on that cost, plus freight and insurance to return the car to Australia.

LCT appears to be charged on the full value of the car when it returns to Australia, plus freight and insurance.

It is difficult to understand why there is partial relief for Customs duty and GST purposes, but not for LCT purposes.

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<sup>104</sup> Imposed by the suite of LCT Acts, the primary being *A New Tax System (Luxury Car Tax) Act 1999* (LCT Act)

<sup>105</sup> CTA Sch 4 Item 17; GST Act s.13-10, and LCT Act s.7-20

<sup>106</sup> CTA Sch 4 Item 20 and By-law 1305083

<sup>107</sup> GST Act s.117-5

- (ii) Where the decision to undertake the renovation work was taken after the vehicle left Australia, there is no relief on reimportation. Customs duty, GST and LCT all apply to the car as if it were a fresh import coming to Australia for the first time.

These scenarios are dealt with in greater detail below.

## 14.2 Customs Duty

- (a) Cars over 30 years old

*Customs Tariff Act 1995 (CTA) Schedule 4 (Sch 4) Item 36* applies and exempts such imports from customs duty.

- (b) Cars under 30 years old. (We have gone in to some detail as the wording, if not the actual provisions, are also used in GST and LCT considerations.)

Duty is payable at the full rate of 5% under Sch. 4 Item 37 (second hand cars) unless the reimportation fits one of the exemptions in Sch 4. They are:

- (i) Item 17: Goods as prescribed by by-law, exported and returned “*without having been subject to any treatment, repair, renovation, alteration or any other process since their export*”. CTA by-law No. 0176871 stipulates that the exemption applies to cars made in Australia or imported and on which duty was paid on first importation.

It goes on to qualify the “repair” condition, saying that “repair” does not include repairs undertaken for the preservation or maintenance of the goods’. The Guidelines indicate:

- (A) this gives effect to Annexure B Standard 5 to Chapter 2 – *Re-importation in the same state* - of the Revised Kyoto Convention<sup>108</sup>, ensuring repair and maintenance to keep a car in the same condition as it was in when leaving Australia will not deprive the vehicle of the Item 17 exemption.
- (B) however, adding a car stereo would deprive the vehicle of Item 17 exemption as the value would have been enhanced.

- (ii) Item 20: Goods as prescribed by by-law exported for the purpose of renovation or repair and returned after that has been done. This Item has been enlivened by Customs By-law No. 1305083, which simply repeats the renovation/repair export intention. The reimportation is not entirely free of duty: duty is applied to “The applicable percentage of the cost, as determined by the Comptroller-General of Customs, of materials, labour and other charges involved in the repair or renovation”. In essence, the restoration cost and not the full value of the vehicle.

## 14.3 GST<sup>109</sup>

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<sup>108</sup> See Guidelines to Item 17, p.43. Note this qualification allowing repairs and maintenance to preserve is not available for either GST or LCT purposes. It appears the view is that only Customs Duty impositions need conform with Australia’s International Convention obligations and the GST and LCT are outside this scope. This is also reinforced by ATO PBR 1012684317444 where it is contended that the LCT on imports does not contravene Australia’s GATT obligations.

<sup>109</sup> GST Exemption Codes are here: <https://www.border.gov.au/Busi/Carg/CMR-/GST-Exemption-Codes>

GST is payable on all importations at 10% of the full value of the vehicle unless one of the exemptions apply. Exemptions are achieved in one of 2 ways. The first is to render it a “non-taxable importation”; the second is to reduce the notional value on which the full rate of 10% is applied. Both depend to an extent on what happens to a car while overseas.

(a) Non-taxable importations: cars returned in unaltered state

GST Act s.13-10 defines this and directs to (for these purposes) s.42-10. This is similar to Item 17 of Sch 4, as a condition is that “the goods were exported from the indirect tax zone and are returned to the indirect tax zone, without having been subject to any treatment, industrial processing, repair, renovation, alteration or any other process since their export.”

However, there are 2 aspects of the treatment under s.42-10 which differ from Item 17, making the GST exemption much narrower than the Customs exemption, as follows:

- (i) There is no interpretative provision under the GST Act to modify the meaning of “repair” to exclude “repairs undertaken for the preservation or maintenance of the goods”, unlike the By-law mentioned above for Item 17. I have been unable to find any guide to this.
- (ii) Ownership and dates of acquisition are critical, unlike the Item 17 exemption, with treatment varying depending on whether the car was acquired before or after the date the GST Act commenced, on 1 July 2000, as follows:
  - (A) Cars acquired on or after 1 July 2000<sup>110</sup>. The importer
    - (I) must be the manufacturer of the goods, or
    - (II) previously acquired the goods through the GST regime, or
    - (III) imported the goods and paid GST on them.
 Prior, although not continuous, ownership is key.
  - (B) Cars acquired before 1 July 2000 (ie before the GST regime commenced)<sup>111</sup>. Again, the current importer must have made, acquired, or imported the car before 1 July 2000, and “the ownership of the goods when they are returned to the indirect tax zone is the same as their ownership on 1 July 2000”. Again, continuous ownership is not required, but the importer must be the initial acquirer.

To summarise therefore, to avail of the exemption, the person importing the vehicle must have owned the car previously and it must be returned to Australia in the same condition as it left.

(b) Reduced value for GST Provision

Where a car is exported for the purpose of renovation or repair the base value for GST purposes is reduced. GST Act s.117-5 stipulates that the value of a “taxable importation”

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<sup>110</sup> GST Act s.42-10(1)

<sup>111</sup> GST Act s.42-10(2)

where the car was exported for renovation or repair is not the full value of the car, but the sum of:

- (i) “the cost, as determined by the Comptroller-General of Customs, of materials labour and other charges involved in the repair or renovation”; and
- (ii) “the amount paid or payable:
  - (A) for the international transport of the goods to their place of consignment<sup>112</sup> in the indirect tax zone; and
  - (B) to insure the goods for that transport.”

In summary, the “value” on which the GST is calculated is the cost of the restoration, plus the freight, and freight insurance, to bring the car back to Australia, and not the value of the restored vehicle on reimportation. This contrasts drastically, and anomalously, with the LCT liability, which appears to be based on the restored value of the car - see below.

#### 14.4 LCT<sup>113</sup>

- (a) Cars returned in unaltered state by a previous Australian owner

Division 7 of the LCT Act deals with importation of luxury cars – ie, those whose value for LCT purposes exceeds the relevant threshold. S.7-10(3)(d) also provides that “you do not make a *taxable importation of a luxury car*...if the importation of the car is a non-taxable re-importation.” S.7-20 defines this using much of the same wording as “non-taxable importations” under GST Act s.42-10.

In summary, this exemption is available where the importer owned the car previously and the car was returned to Australia unaltered from when it left.

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<sup>112</sup> GST Act s.195-1 *place of consignment* of goods means:

- (a) if the goods are posted to Australia—the place in Australia to which the goods are addressed; or
- (aa) if the supplier of the goods is to deliver the goods in Australia—the place in Australia to which the goods are to be delivered under the contract for the supply of the goods; or
- (ab) if:
  - (i) neither paragraph (a) nor (aa) applies; and
  - (ii) the goods are to be transported into Australia by an entity supplying a transport service to an entity that is to import the goods into Australia;

the place in Australia to which the goods are to be delivered under the contract for the supply of the transport service; or

- (b) in any other case—the port or airport of final destination as indicated on the \*transportation document.

<sup>113</sup> See also the ATO’s Guide to the Luxury Car Tax at <http://www.icb.org.au/out/?dlid=4115> . See also <https://www.ato.gov.au/misc/downloads/pdf/qc22094.pdf> . LCT Exemption Codes are here: <https://www.border.gov.au/Busi/Carg/CMR-/LCT-Exemption-Code>

(b) Cars exported for renovation or repair.

There is no equivalent in the LCT Act to Division 117 of the GST Act, which limits the taxable value of the vehicle to the cost of materials and labour used in the renovation, plus freight and insurance to get it back to Australia.

This is reinforced by 2 ATO Private Binding Rulings:

- (i) PBR 1012684317444 which deals with a proposal to export cars for owners, have them renovated overseas, and then bring them back into the country. They would remain registered in Australia in the name of the owners.

In summary, the ruling says that LCT is payable and the LCT value is the customs value at the time of reimportation, plus transport and insurance, customs duty and GST.

It is also obvious that the value for this purpose is not only the cost of renovation or repair (as with a GST Act Division 117 re-importation) but the whole “value of the car” which it was clear exceeded the LCT threshold.

- (ii) PBR 1012438626267 which deals with the LCT value where a car is sent overseas for a total restoration and then reimported. LCT is payable on the restored value.

It is inconsistent for Customs duty to be imposed only on the renovation cost, GST to be imposed on the costs of restoration plus freight and insurance, and the LCT is imposed on the whole of the restored value plus freight and insurance. Surely whatever policy drivers there are must be the same for each of these taxes?

15. WTO and GATT Obligations<sup>114</sup>

For the reasons outlined in detail in AHVIG pre-Budget 2019-20 Submission No 2, AHVIG submits that:

- (a) Most Historic cars (over 30 years old) and a number of newer second hand cars, will constitute “works of art or collectors’ pieces”, as the term is used in various treaties and other international agreements to which Australia is a party. Australia has already accepted this is the case, for the purpose of the Museums’ exemption discussed above at Section 8.
- (b) Second hand cars over 100 years old also constitute “antiques”, again as reflected in various treaties and agreements.
- (c) Australia’s WTO/GATT obligations require that the importation of both types of vehicle - works of art or collectors’ pieces” and “antiques” - be free of any import charges.
- (d) As the LCT and GST would not be payable on the sale of identical items changing hands within Australia, the GST and LCT both constitute import charges.
- (e) As such, their imposition constitutes a breach of Australia’s WTO/GATT obligations, under GATT Article II:1(b).
- (f) The Customs Duty exemption for the importation of cars over 30 years old should be extended to the LCT and GST as well, to bring Australia’s legislation into line with its international obligations.

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<sup>114</sup> World Trade Organisation and General Agreement on Tariffs and Trade

## 16. Implications were Historic Car LCT Exemption Granted: Australia's Motoring Heritage

### 16.1 Heritage Replenishment

Both the Survey Results (at 10.0 above) and the letter from Sleeping Beauties (Attachment 3)<sup>115</sup> indicate there is a pent up demand to import Historic Cars that is being stifled by the LCT.

Historic Cars effectively blocked from importation at present would be bought in considerable numbers and imported<sup>116</sup>.

As shown in 4.2 above, in Australia, approximately 770,000 enthusiasts own around 950,000 Historic Cars.

Around 1,000 of those were asked to complete the Survey (Division 10) and 410 did so. They indicated that but for the LCT they would import 676 Historic Cars worth more than the LCT threshold. It is reasonable to expect there would be many more enthusiasts with similar intentions among the other 760,000 Historic Car owners. Even if 5% of them each imported one Historic Car, that would amount to an addition of 38,000 cars to the fleet. While this may sound like a large number, as reported above, around 65,000 historic vehicles have entered the country since 2000.

Those imports would go some way towards replenishing Australia's Historic Car fleet.

We are still trying to ascertain the total numbers of Historic Cars that have left Australia over the same period, but all reports, including those cited above<sup>117</sup>, suggest far more have left than entered. This is certainly the cars with the higher-end Historic Cars.

This would go some way towards replenishing Australia's Historic Car fleet. Attention is again drawn to the Motorclassica letter (Attachment 2) for a succinct outline of the importance of replenishing the Historic Car fleet.

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<sup>115</sup> Whose clients would like him to import 12 cars for restoration

<sup>116</sup> See Division 10 above – Survey results

<sup>117</sup> Bentleys etc

## 17. Implications were Historic Car LCT Exemption Granted: Taxation revenue

17.1 Losses: LCT receipts on the importation of Historic Cars have averaged around A\$1.2m per year over the last decade. Until recently, the fact that LCT applied to imports of Historic Cars was little known and private importers were unaware of its application until they imported their car. With the publicity the issue has had over the past year it seems probable more enthusiasts are aware of the tax and will be less likely to buy cars knowing it exists, reducing the amount of Historic Car LCT receipts.

## 17.2 Gains: Immediate – GST on importations

However, from the results of both the Survey (10.0 above), and reports from restorers, were the exemption to be granted, many more cars worth more than the LCT threshold would be imported, and the GST receipts on those imports would more than offset the loss in LCT revenue.

## (a) Survey results:

About 1000 car club members were asked to complete a survey and 410 responded. Were the LCT exemption for Historic Cars to be granted, they would import 676 Historic C and if one assumes they had a landed cost of just above the LCT threshold of \$65,094, the GST payable on their importation would amount to least \$4,394,000. Obviously the actual figure would be much greater and could easily be double that amount.

## (b) The letter from Wolf Grodd of Sleeping Beauties (Att 3)

His clients want to import a further 12 Historic Cars worth \$11.2m for him to restore, but will not because of the LCT. The GST on those imports would amount to at least \$1.12m.

Nett result would therefore be (assuming all were imported in year 1):

LCT lost: \$1.2m

GST gained: \$4.39m + \$1.12m = \$5.51m

Revenue-positive by \$4.31m.

## 17.3 Gains: Ongoing – businesses and jobs and GST and income tax from that activity

## (a) Survey results

Probable restoration and maintenance costs on the cars to be imported would generate a further \$1.6m in GST.

## (b) Sleeping Beauties

The restoration costs on the 12 Sleeping Beauties cars would be \$4.32m and the GST would be \$0.432m.

One of the restorations would provide work for 4 people for 3 years.

## 18. Implications were Historic Car LCT Exemption Granted: Road Safety and Emissions

## (a) Emissions

As pointed out elsewhere, emissions considerations are irrelevant for buyers of Historic Cars. Most were made before there were any legal requirements about exhaust emissions.

Historic Cars are almost invariably registered for road use in Australia under one of the various State or Territory concessional use schemes. Some States, eg Qld, only allow such vehicles to be used on excursions that are listed as official events of approved clubs. Other States, such as NSW, Victoria and SA, utilise a Log Book scheme, whereby cars may be used a certain number of days (not more than 90) in any calendar year. When NSW went to a 60 day Log Book Scheme in 2016, the usage barely doubled from fewer than 10 times a year and few clubs reported 20 days of the available 60 were used<sup>118</sup>.

Some never get out or only once or twice a year – particularly where a number of cars are owned by one enthusiast. Generally the drives are with a particular car club and that limits the opportunities – you can only drive one car at a time anyway. In Queensland, the combination of no power steering, and no air conditioning means they are rarely used in summer months. All the longer drives are confined to the winter months.

The UK, keen to see Historic Cars used as much as possible, provides free annual registration, with no annual use restriction. This is because the UK Government recognises their massive contribution to the UK historic social fabric and £5.5bn annually to the economy.

This Australian restricted use pattern would also apply to any Historic Car imports and would probably not lead to any greater use overall of Historic Cars anyway. The same enthusiasts would probably just drive a different car to the same event. The effect on emissions would be miniscule.

## (b) Death, Serious Injury and Injury Rates for Historic Cars

The Australian and UK Historic Car fleets are broadly similar. What is desired there is desired here.

While there is no data on the above rates for Historic Cars in Australia, it is tracked in the UK, and acted upon by the UK Government.

The UK has a much harsher environment for Historic Cars, with road-salting contributing to serious corrosion not only of body and chassis work, but also components like brake lines, suspension components. As mentioned above, this is why Australia has a much higher survival rate for Historic Cars.

For this reason, the UK has an annual MOT test of roadworthiness. Because of the far lower accident rates for older Historic Cars, the test was made optional for cars made before 1960 some years ago.

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<sup>118</sup> As advised by the CHMC, One of the 2 peak bodies for Historic Car clubs in NSW, the Council of Heritage Motor Clubs NSW (<http://heritagemotoringcouncil.org.au/>)

Recent analysis of UK accident data<sup>119</sup> has found that:

- (i) The MOT failure rate and the number of people killed and seriously injured in accidents involving vehicles over 40 years old are both lower than those for newer vehicles.
- (ii) Death and serious injury rates per vehicle for pre-1978 vehicles are significantly fewer than the figures for those vehicles built after 1988
- (iii) Rates of injury (ie non-serious) per vehicle are also lower for pre-1978 vehicles
- (iv) MOT pass rates are also indicative of the condition in which vehicles are kept. Like vehicles registered before 1960 (but less so), vehicles first registered in 1961-1977 have a substantially lower MOT failure rate than the general fleet
- (v) The rate of death and injury in vehicles from 1978-87, unlike the older vehicles, is comparable to that of the general vehicle fleet. That is to say, despite vehicle safety advances in more modern vehicles, it is no less safe to travel in older vehicles.

This is attributed to various things, including that “Many current owners of older vehicles do take great pains at present to maintain their vehicles”.

Australian enthusiasts also try to avoid driving their Historic Cars in extreme heat, heavy traffic, at night or in the rain.

There would therefore be no physical downsides to more Historic Cars entering the country. Those paying for more expensive Historic Cars can also be expected to be meticulous about their maintenance, especially with significant sums tied up in those vehicles.

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<sup>119</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/644412/government-response-to-exempting-vehicles-of-historical-interest-from-roadworthiness.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/644412/government-response-to-exempting-vehicles-of-historical-interest-from-roadworthiness.pdf) accessed 22 Jan 2018

## 19. Conclusion

- 19.1 The LCT has acted as an almost complete deterrent on the importation, and reimportation, of Historic Cars worth more than the LCT threshold, for 18 years. Over the past 10 years, 38,814 cars were imported, with 36,867, or 95% of them being priced at \$50,000 or less. Only 1947 cars worth above \$50,000 came in, and many were either Australian-resident cars returning from temporary overseas visits, or overseas-resident cars entering Australia for temporary visits. And of those 1947 cars, an indeterminate number were worth less than the LCT threshold which over that period ranged from \$57,123 to \$65,094.
- 19.2 During the same period, thousands of Historic Cars worth more than the LCT threshold have left Australia. The LCT has acted as an effective “one way valve” preventing the importation of Historic Cars.
- 19.3 LCT on imports of Historic Cars raises little revenue - on average over the past decade, \$1.2m a year, or 0.24% of total LCT receipts. This about 1/3 of what the ATO described as the “small amount” collected by Customs on behalf of the ATO.
- 19.4 Apart from the damage done to Australia’s Historic Car (or heritage) fleet, it has also had the following economic effects:
- (a) So effective is the deterrent effect, it appears to have cost the Government substantial amounts of GST revenue that would otherwise have flowed from Historic Car imports.
  - (b) It appears, from the results of the Survey conducted, and the information from Historic Car restorers, that exempting Historic Car imports from the LCT will actually be revenue-positive, with the GST that would be earned exceeding any LCT foregone.
  - (c) It has prevented Australian businesses from participating in the World wide boom in interest and economic activity associated with Historic Cars.
  - (d) This has also deprived Australians of jobs. In the UK, for example, apprenticeships are now being offered in Vehicle Restoration. One car identified by a restorer would, if imported, provide 4 full time jobs for 3 years.
  - (e) Australia has been akin to a resource-rich third world country, providing only the raw materials – vehicles from its one magnificent Historic Car fleet – while the bulk of the value-adding has occurred in more enlightened countries overseas.
- 19.5 As was stated in the Australian Treasury’s “A Brief History of Australia’s Tax System”<sup>120</sup> “the hallmark of an efficient tax” is one which “can be applied without creating undue distortions to consumption decisions”. Not only does the LCT distort Historic Car import consumption decisions, it almost extinguishes them.
- 19.6 Were the imports of Historic Cars to be exempted from the LCT, it seems there would be an immediate uplift in GST revenue, business activity and jobs – not to mention partial replenishment of Australia’s Historic Car fleet, with all the flow-on benefits that the importation of what in many cases are tourist attractions in their own right.

A more comprehensive list of the benefits appears in the Executive Summary.

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<sup>120</sup> [https://archive.treasury.gov.au/documents/1156/HTML/docshell.asp?URL=01\\_Brief\\_History.asp](https://archive.treasury.gov.au/documents/1156/HTML/docshell.asp?URL=01_Brief_History.asp) accessed 5 Feb 18

- 19.7 We are mindful of media reports that the LCT may be phased out over coming years, and, if so, that this may be seen as an appropriate response to this submission. We respectfully submit that is not appropriate, and that the Historic Car sector should be given differential treatment, as soon as possible.

20. Recommendation

20.1 That the importation of Historic Cars be exempted from the LCT.

This can be achieved by an amendment to *A New Tax System (Luxury car Tax) Act 1999* Section 7-10(3)(c) line 1, by deleting “21 or 24” and inserting “21, 24 or 36” such that it would then read:

“(c) the car is covered by item 10,11,15, 18, 21, 24 or 36 in Schedule 4 to the Customs Tariff; or”

Item 36 reads:

*“Vehicles aged 30 years or more that are:*

*(a) utilities or pick-ups, having a g.v.w. (within the meaning of Additional Note 7 to Chapter 87 of Schedule 3) not exceeding 3.5 tonnes, classified under subheading 8704.21.10 or 8704.31.10 of Schedule 3; or*

*(b) passenger motor vehicles*

This would then have it conform to the long-standing exemption from Customs duty on the importation of Historic Cars, and bring Australia into line with the other countries which have thriving Historic Car-based businesses.

20.2 That Historic Cars be looked at, and treated separately from new cars from now on, whenever any decisions are made about the general application of the LCT, such as those supposedly foretold in the popular press about the effect of various proposed Free Trade Agreements.

Douglas Young  
Chair  
AHVIG  
31 January 2019



## Attachments to AHVIG Submission

1. Table showing Historic Cars imported and LCT receipts on same since 2007/08 (DHA)
2. Motorclassica (Paul Mathers) letter 14 December 2017
3. Sleeping Beauties (Wolf Grodd) letter 13 December 2017
4. Brooklands Classic Cars (Paul Sabine) letter 29 December 2017
5. Automobili Rapide (Terry Healy) letter 10 December 2017
6. Brief history of LCT
7. "Land speed record-breaking motorcycle to return to Australia after setting top auction price" – ABC News, 3 February 2018
8. 2009 Auction catalogue entry for 1901 De Dion Bouton
9. Up the Creek (Grant Cowie) Letter 5 February 2018

## 17.12.04 LCT on personal imports of cars over 30 years old (DIBP)

Financial Year	Customs Value Band	LCT Payable	Number of Vehicles
2007-2008	\$0 - \$49,999	11,207.20	4,020
	\$50,000 - \$99,999	346,019.22	102
	\$100,000 - \$149,999	286,808.11	29
	\$150,000 - \$199,999	99,180.98	9
	\$200,000 - \$249,999	47,133.70	8
	\$250,000 - \$299,999	0.00	4
	\$300,000 or over	385,699.32	23
	<b>Total</b>	<b>1,176,048.53</b>	<b>4,195</b>
2008-2009	\$0 - \$49,999	24,996.67	3,619
	\$50,000 - \$99,999	407,366.11	125
	\$100,000 - \$149,999	218,973.41	11
	\$150,000 - \$199,999	222,437.13	6
	\$200,000 - \$249,999	204,039.06	5
	\$250,000 - \$299,999	56,760.01	7
	\$300,000 or over	153,557.62	15
	<b>Total</b>	<b>1,288,130.01</b>	<b>3,788</b>
2009-2010	\$0 - \$49,999	50,675.97	3,051
	\$50,000 - \$99,999	339,402.34	91
	\$100,000 - \$149,999	210,167.89	19
	\$150,000 - \$199,999	85,883.87	4
	\$200,000 - \$249,999	0.00	6
	\$250,000 - \$299,999	0.00	3
	\$300,000 or over	0.00	11

Financial Year	Customs Value Band	LCT Payable	Number of Vehicles
	<b>Total</b>	<b>686,130.07</b>	<b>3,185</b>
<b>2010-2011</b>	\$0 - \$49,999	2,022.30	4,683
	\$50,000 - \$99,999	460,898.43	114
	\$100,000 - \$149,999	283,903.56	18
	\$150,000 - \$199,999	254,408.30	9
	\$200,000 - \$249,999	55,431.33	5
	\$250,000 - \$299,999	67,984.35	4
	\$300,000 or over	811,799.93	12
	<b>Total</b>	<b>1,936,448.20</b>	<b>4,845</b>
	<b>2011-2012</b>	\$0 - \$49,999	12,463.18
\$50,000 - \$99,999		564,204.92	137
\$100,000 - \$149,999		222,859.81	15
\$150,000 - \$199,999		155,263.55	9
\$200,000 - \$249,999		0.00	2
\$250,000 - \$299,999		0.00	2
\$300,000 or over		0.00	13
<b>Total</b>		<b>954,791.46</b>	<b>5,407</b>
<b>2012-2013</b>		\$0 - \$49,999	33,047.94
	\$50,000 - \$99,999	470,215.35	137
	\$100,000 - \$149,999	719,300.65	32
	\$150,000 - \$199,999	186,727.77	9
	\$200,000 - \$249,999	164,978.01	3
	\$250,000 - \$299,999	75,527.12	2
	\$300,000 or over	625,855.73	7
	<b>Total</b>	<b>2,275,652.57</b>	<b>4,649</b>

Financial Year	Customs Value Band	LCT Payable	Number of Vehicles
2013-2014	\$0 - \$49,999	8,437.34	3,711
	\$50,000 - \$99,999	368,784.78	134
	\$100,000 - \$149,999	349,692.99	44
	\$150,000 - \$199,999	73,062.97	15
	\$200,000 - \$249,999	105,018.71	5
	\$250,000 - \$299,999	0.00	1
	\$300,000 or over	0.00	12
	<b>Total</b>	<b>904,996.79</b>	<b>3,922</b>
	2014-2015	\$0 - \$49,999	10,475.72
\$50,000 - \$99,999		305,627.40	137
\$100,000 - \$149,999		215,301.24	16
\$150,000 - \$199,999		316,141.67	11
\$200,000 - \$249,999		0.00	2
\$250,000 - \$299,999		0.00	6
\$300,000 or over		0.00	26
<b>Total</b>		<b>847,546.03</b>	<b>2,934</b>
2015-2016		\$0 - \$49,999	11,042.48
	\$50,000 - \$99,999	335,061.34	126
	\$100,000 - \$149,999	128,620.47	9
	\$150,000 - \$199,999	185,745.75	8
	\$200,000 - \$249,999	114,267.75	4
	\$250,000 - \$299,999	145,443.47	4
	\$300,000 or over	219,720.21	16
	<b>Total</b>	<b>1,139,901.47</b>	<b>2,217</b>
	2016-2017	\$0 - \$49,999	0.00

Financial Year	Customs Value Band	LCT Payable	Number of Vehicles
	\$50,000 - \$99,999	632,854.21	184
	\$100,000 - \$149,999	239,702.12	17
	\$150,000 - \$199,999	192,901.23	9
	\$200,000 - \$249,999	240,837.28	6
	\$250,000 - \$299,999	0.00	3
	\$300,000 or over	0.00	25
	<b>Total</b>	<b>1,306,294.84</b>	<b>2,561</b>
2017-2018 (part)	\$0 - \$49,999	2,411.24	992
	\$50,000 - \$99,999	194,299.27	70
	\$100,000 - \$149,999	189,460.42	20
	\$150,000 - \$199,999	174,339.03	10
	\$200,000 - \$249,999	61,964.01	2
	\$250,000 - \$299,999	0.00	1
	\$300,000 or over	501,032.61	16
	<b>Total</b>	<b>1,123,506.58</b>	<b>1,111</b>

Totals of Historic cars imported 2007-2017 (from DIBP data 4.12.2017)

Financial Year	Number of Vehicles under \$50k	Total Number of Vehicles
2007-2008	4,020	4,195
2008-2009	3,619	3,788
2009-2010	3,051	3,185
2010-2011	4,683	4,845
2011-2012	5,229	5,407
2012-2013	4,459	4,649
2013-2014	3,711	3,922
2014-2015	2,736	2,934
2015-2016	2,050	2,217
2016-2017	2,317	2,561
2017-2018 (part)	992	1,111
<b>Totals</b>	<b>36,867</b>	<b>38,814</b>

Of the above 38,818 cars, 36,867, or 95% were under \$50,000.

Those over \$50,000 coming in were only 1947 – and many were temporary imports or temporary exports returning, as well as some under the LCT threshold.

And in every year, most LCT was raised in the \$50-100k range, despite very few cars being imported.

Note that over the longer period from 2000 – 2018, DIRD advised of approx 65,000 VIAs being granted.

17.12.04 LCT total by year on personal imports of cars over 30 years old (DIBP)

Financial Year	LCT Payable
2007-2008	1,176,048.53
2008-2009	1,288,130.01
2009-2010	686,130.07
2010-2011	1,936,448.20
2011-2012	954,791.46
2012-2013	2,275,652.57
2013-2014	904,996.79
2014-2015	847,546.03
2015-2016	1,139,901.47
2016-2017	1,306,294.84
2017-2018	1,123,506.58
<b>Total 11 years</b>	<b>13,639,446.55</b>
<b>Average/year</b>	<b>1,239,949.69</b>

Of the A\$609m in 2016-17, the average represents 0.2%.



# MOTORCLASSICA

14 December 2017

To Whom It May Concern,

This letter is written in support of the Australian Historic Vehicle Interest Group (AHVIG) campaign for the exemption from Luxury Car Tax (LCT) for classic, vintage and veteran era vehicles over 30 years old.

In a country defined by its immense size and distances, motoring has, since the early 20<sup>th</sup> century, been a hallmark of our culture. Long before Australia commenced manufacturing cars, this colonial outpost became an important market for the importation of cars – particularly those of a certain build and design quality deemed to match our harsh local conditions. As a result, Australia has for generations been home to a pool of enduring classics from brands like Rolls-Royce, Bentley, Vauxhall, Cadillac, Ford, Chrysler and more.

This colourful motoring heritage is now under threat. The imposition of the LCT on classic, vintage and veteran cars has placed Australia unviably in the international marketplace for the trading of these cars. As with the buying and selling of art, collectable cars belong to a world market, and Australian-origin cars and motorcycles are inevitably sold to overseas buyers, particular when exchange rates are favourable. Many of these cars and motorcycles find their way to the UK and Europe. However, the LCT has stemmed the flow of classic, vintage and veteran cars imported to Australia, unrealistically inflating the cost of vehicles without a commensurate increase in their international market value.

Many significant and historically important classic cars have sold overseas in recent years. They include Bentley R-Type Continental, rare alloy-bodied Jaguar XK120, vintage Stoeber tourer, Aston Martin Lagonda Rapide, Vauxhall 30/98 tourer, Ferrari 250GT Lusso and more. Whilst these cars have been traded on an international market at true market prices, cars attracting the LCT imported into Australia have been penalized, making them a poor investment, particularly at the top end of the market which regularly sees these cars trading in the millions of dollars. For example, a very rare Tucker 48 (one of only 51 made) was purchased at auction in Monterey, California in 2009, for USD 1.265 million including buyer's premium (AUD 1,417 million). This was at the time, considered to be correct market value for that car. Imported into Australia shortly afterwards, the car ended up costing the owner almost \$600,000 more in taxes, placing the car's cost well above its value. Eight years on, the most recent sale of a similar Tucker Torpedo fetched

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# MOTORCLASSICA

USD1.347 million (AUD 1.793 million). Whilst the international market value of the car has increased it is still well below what was paid by the Australian buyer/importer in 2009.

Classic cars have an enormous following in Australia with more than 600 clubs existing around Australia, and internationally the movement is booming. A recent study in the UK placed the value of the classic car industry in excess of GBP 5.5 billion per annum.

A recent survey of Motorclassica visitors indicated that, removing outliers, visitors spend approximately \$6.9 million at the event, and expect a post-show spend of approximately \$104.3 million on their classic cars and motorcycles. Indeed, not including ticket sales or at-show purchases, Motorclassica as an event delivers an economic impact in excess of \$9.2 million to Melbourne over the four event days. It is believed that should LCT be waived for classic cars imported into Australia, it would be more than compensated for by the increase in expenditure by collectors restoring and maintaining these cars locally.

These rare, exotic and often beautiful cars are not only a part of Australia's cultural capital, but provide tangible benefit for all Australians, in the creation of jobs (in restoration, brokerage, freight, storage, maintenance, parts manufacture and so on) and in stimulating the broader motoring industry. As a movement, it creates not only jobs, but a significant "cottage" industry of highly skilled professionals – an industry recently recognized by Motorclassica with the introduction of our Schools Program, designed to highlight skills and career opportunities for young people.

Furthermore, Motorclassica, as the pre-eminent classic motoring event and concours d'elegance in Australia (and the largest event of its type in the southern Hemisphere), encourages us to think of vintage, veteran and classic cars and motorcycles as art, or "rolling art". In the same way that a country might pride itself on its artistic heritage, so too should it pride itself on the collection of automobiles stabled locally and available to be shared to the wider public as art is displayed in galleries around the country. Motorclassica is only one such "gallery" for the public to view such automotive history, but others include the Fox Collection, the Gosford Classic Car Museum and the monthly foyer displays at the RACV Club in the Melbourne CBD.

To conclude that an exemption of LCT from vintage, veteran and classic cars might be seen as a cynical tax cut for the wealthy is far too simplistic and ignores both cultural considerations and the potential growth of a skilled industry in support of the movement. To date, the balance is

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# MOTORCLASSICA

skewed with more historically important vehicles leaving the country than entering and this is predominantly due to the current LCT imposed upon these vehicles. Lest we wish to see a large part of our cultural cache slip through our fingers, changes must be made to redress the imbalance.

The work of the AHVIG is both well-reasoned and balanced and looks to not only highlight concerns but also provide potential solutions. I hope, on behalf of Australia's historic motoring movement, that their submission is given serious consideration.

Yours sincerely,

PAUL MATHERS  
Event Director & Portfolio Lead (Motoring Lifestyle)  
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Auto Art International Pty Ltd trading as

## SLEEPING BEAUTIES



RESTORATION OF MERCEDES-BENZ AND OTHER FINE AUTOMOBILES

13 December 2017

Your ref:

Our Ref:

Doug Young  
 Chair  
 Australian Historic Vehicle Interest Group  
 C/- Association of Motoring Clubs  
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Dear Doug,

Luxury Car Tax (LCT) on Classic Car Imports – Impact on Australian Businesses (and Heritage)

Thank you for your letter of 7 October 2017. I am pleased to provide the following information about the LCT.

I have a classic car restoration business in Brisbane. In 29 years we have restored over 400 cars for customers all over the world.

There is a one-way traffic of classic cars leaving Australia. Major dealers are running expensive adverts in overseas magazines selling to collectors in Europe and USA. That is unavoidable trading - but in the distant past, cars would enter this country or return in time. The LCT however is preventing this for some years now. Australia is slowly being drained of its motoring heritage.

Take this 1937 BMW, sold to Singapore 30 years ago, for \$55,000. [Att 1] Back on the market, now asking \$200,000. To bring it "home" would cost \$90,000 in taxes, so it went to UK.

This 1936 BMW [Att 2] won the Australian GP in 1949 at Point Cook. I sold it 40 years ago to a Sydney collector. It is now in Switzerland, valued at A\$1.3 mill. It should come "home", but that would now cost almost A\$2 mill.

Nowhere else is the tax on cars over 30 years old this savage. UK is 5%, that is where they are going.

We have many collector customers interested in restoration projects available overseas.

We have discovered a 1939 Mercedes S40K with significant history. [Attachments 3.1-3.3] Located in USA, it is offered for sale at US\$ 1.3 mill. or close to A\$ 1.8 mill. To bring this project into Australia would add a prohibitive \$750,000.

So that will not happen and our business is missing out on a one million dollar job. Yes, one million \$\$\$. That would employ 3 people for 4 years.

As classic cars and restoration projects are getting ever more scarce, Australian collectors are searching overseas for possible purchases. With the LCT applying to values above, I believe, \$65,000, only cheap imports are being considered.

The more collectable valuable cars and projects priced at \$100,000 and well above, are predictably passed over. That not only affects our classic car ownership (regularly requested by Government and charities for historic displays at official occasions) but the restoration businesses are disappearing, along with most other manufacturing.

I understand that the "business" of restoring, preserving and enjoying historic and classic cars is a £5.5 billion industry in UK. We are missing out.

Collectors would be quite prepared to add the 10% GST when purchasing an overseas classic, but not a further 33% on the value above the threshold. So the ATO is missing out as well.

Here are a 10 cars requested by local collectors, with the value estimates, LCT estimates, and GST which the ATO would receive were they to be imported<sup>1</sup>. For completeness, I have included 2 other cars; the first being the Mercedes Benz 540K referred to above, and second, we have a customer who owns a £1m Mercedes 300SL in the UK since 1980. He used to reside in UK for some months each year, but he is now getting too old for that. He would love to bring his classic "home" to Melbourne. The tax alone would cost him \$635,000. So it will now be restored in the UK and sold there.

No	Car	Value	Value A\$	GST A\$ (incl freight and ins)	LCT A\$	Restoration cost in Australia A\$
1	1955 Mercedes 300SL [Att 4.1-4.2]	US\$1.3m	\$1.68m	169,000	538,172	300k
2	1939 German Horch [Att 5]	US\$400k	\$516k	52,600	154,052	400k
3	1949 Alfa Romeo Golden Arrow [Att 6]	€180k	\$272k	28,200	73,532	250k
4	1952 Mercedes 220 Cabriolet [Att 7]	€150k	\$227k	23,700	58,748	250k
5	1938 Mercedes 170V Cabriolet [Att 8]	US\$150k	\$194k	20,400	47,792	200k
6	The Lex Davidson Mercedes racer from the 40/50s, now in NZ (also subject to LCT to return to	A\$2m?	\$2m	201,000	643,772	750k

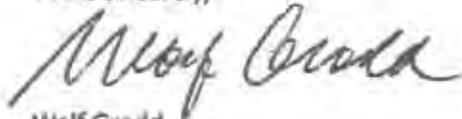
<sup>1</sup> Assuming A\$10k for freight and insurance, zero customs duty (as cars over 30 years old); exchange rates current as at 9 October 2017 as follows: 1 GBP = A\$1.68; 1 Euro = \$A1.51; 1 USD = A\$1.29. GST and LCT Calculation formulae appear at end of letter.

No	Car	Value	Value A\$	GST A\$ (incl freight and ins)	LCT A\$	Restoration cost in Australia A\$
	Australia) [Att 9]					
7	1936 Rolls Royce ex Queensland, now in Malaysia [Att 10]	A\$80k	\$80k	9,000	10,172	120k
8	1906 Locomobile available in US [Att 11]	US\$250k	\$323k	33,300	90,362	200k
9	1935 Alfa Romeo ex Victoria [Att 12]	€1m	\$1.51m	152,000	482,072	200k
10	1956 Mercedes 300SL ex Queensland [Att 13]	€800k	\$1.21m	122,000	383,072	350k
11	1936 Mercedes Benz 540K	US\$1.3m	\$1.68m	169,000	538,171	1m
12	1955 Mercedes 300SL in UK	€1m	\$1.51m	152,000	482,072	300k
	Totals		\$11.2m	\$1.132m	\$3.502m	\$4.32m

Because of the deterrent effect of the LCT on classic car imports, on these 12 cars alone, the ATD is missing out on \$1.13m in GST revenue and one local business is missing out on restoration expenditure of \$4.32m. Not to mention the flow on work for customs agents, transport companies, insurers, registration revenues for State and Territory governments, classic car storage facilities, and those involved in the expensive ongoing maintenance these vehicles will require post-restoration.

LCT on classic cars is an unfair tax, raising no funds for anyone and small business and the motoring history in this country are the poorer for it.

Yours sincerely,



Wolf Grodd  
Sleeping Beauties, Restoration of Fine Automobiles since 1988

GST = 10% of value of taxable importation (VTI)

VTI = Customs value (assumed to be purchase price overseas) + Customs duty (nil in this case) + Freight to deliver to Australian destination + Insurance cost of transport (assumed to be A\$10k – will be less for some and more for others)

LCT value = VTI + GST

LCT = (LCT value – LCT threshold)  $\times$  10/11  $\times$  33%

LCT threshold for 2017/18 = \$65,094



29<sup>th</sup> December 2017.

TO:- Mr Doug Young.

Australian Historic Vehicle Interest Group.

Please find below, my comments and observations in relation to Luxury Car Tax [LCT], and other related matters.

TO WHOM IT MAY CONCERN.

My name is Paul Sabine. I am owner and Dealer Principal of Brooklands Classic Cars in Cheltenham , Victoria. 3192.

I have been involved in and around Classic and Collectible cars practically all my life, and professionally been in the business of classic cars for nearly 40 years. I have served on the Committee of the MG Car Club in the 1960's, founding member and Secretary of the Mercedes Benz Club in the 1970's and Area Rep for the Aston Martin Owners Club and Member of the Board of management for the Aston Martin Owners club [UK] in the 1980's and 1990's.

I was Convenor of the Melbourne Classic Car Show at the Royal Exhibition Building between 1985 and 1989[ forerunner of Motorclassica,] and was auction director or for the inaugural Australian Grand Prix Auction conducted by Shannon's in 1996.

Except for a brief spell with the AGP auction in 1995/6, I have been involved in the retailing , importing , exporting , restoration and maintenance of specialist cars for over 38 years.

Luxury Car Tax. [LCT]

Implemented on 1/7/2000 to coincide with the introduction of GST in Australia. Initially the rate was struck at 25% of value over the depreciation limit, but his increased in 2008 to 33% over the depreciation limit. The depreciation limit has been indexed each year, but is generally in the mid 60 thousand dollar range of late.

The LCT was primarily introduced as an incentive to Australian domestic new car buyers to buy Australian made motor cars, and the LCT would be applied to all imported vehicles over the depreciation limit, in the hope that better value could be had, by buying Australian.

However, for some reason , LCT was applied to any motor car entering Australia irrespective of age, older cars being considered "new" to Australia. Consequently for the past 17 years historic car enthusiasts have been levied with LCT, even though very few would have considered buying an historic vehicle instead of a new Holden , Ford or Toyota.

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LCT . Current cause and effect to the market.

I am aware that many overseas enthusiasts have considered moving to Australia to live. Some of these people had multiple and enviable collections of world class cars which would have added to our cultural motoring heritage , and been able to be enjoyed by their owners and the public alike.

Instead of re locating here , because of the huge LCT impost, most have sought to remain, sell their cars on, or seek a more equitable place to reside.

So , apart from the Government missing out on a valuable GST fillip, the individuals ,the public and our motoring heritage have been disadvantaged.

A further effect , concerns the quality of historic and classic car imports entering Australia. Many have not been prepared to pay LCT, and have imported a cheaper car. Unfortunately this has meant that the depth and quality of our historic car stock has diminished over recent years, even though the actual numbers have increased.

One has to be careful not to regard these motor cars as elitist, or privileged items, due to an impost by value such as the LCT. Many purchasers were completely unaware of what would happen to prices over the years ,having purchased their cars quite cheaply. The LCT limit now only approximates the price of a new Ford Mustang or entry level BMW or Mercedes Benz for example.

By contrast , UK and the EU have lowered duties on imports of classic cars [usually from 1971 on] and this has made the Australian bread basket of classic cars even more attractive to overseas purchasers.

Almost purely because of LCT, we are unable to compete, and import a car ourselves, at a comparable world price, and thus have some hope of restoring the status quo.

From the perspective of a retailer or dealer, the situation is even more serious, as the assessed LCT is refunded at the point of import, and then re applied at the retail end. So in simple terms if a vehicle has a profit of 20,000, then 33% of that figure, a further \$6600, would have to be charged or allowed for at sale.

The Aston Martin DBSZ Concept project.

Since 2006 , a significant activity in our business has been the limited rebuilding and redesign of the iconic Aston Martin DB4GT Zagato models of the 1960's. Some of these cars have been exported to enthusiasts around the world.

The project requires the importation of a DBS model from 1967 to 1973 as a donor car for the DBSZ to be built up from. These are designed and hand crafted here as well as being mechanically rebuilt repainted and retrimmed. The employment of skilled coachbuilders, mechanics, painters ,trimmers and assemblers are required in the construction of these cars.

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Suitable donor cars have not been available in Australia of late, and the overseas purchase price means they are over the LCT threshold, and this fact threatens the economic viability of the project.

Import and exports of Historic cars.

My view is that most of the truly historic cars held in Australia were exported in the 1983 to 1989 period, and some earlier. Some overseas markets were first to recognize the movement, such as UK and Japan, and our rates of exchange were very favourable to those importing countries.

However, the loss of better car stock due to export is a concern, as we are simply unable to import like for like, with the burden of LCT.

As an example, here is an overview of movements for Aston Martin DB4, DB5 and DB6 cars in Australia.

DB4 17 delivered new, 26 imported used. 12 have been exported. DB5 5 delivered new. [ James Bond effect saw most production taken up in UK]. 33 imported used. 39 known, 17 exported. DB6 12 delivered new, 70 imported used, 97 known, 13 not found, 2 written off, 23 exported. This only an indicative record from my own and another enthusiasts records.

One further point which needs clarification. Currently car import figures do not seem to differentiate between imports which are destined to be permanent, and those which are imported for events or temporary stays in Australia. This may provide a distorted context to the types of cars arriving here.

Normally vehicles which are arriving temporarily for shows, competition events or other reasons can be of considerably higher value or significance to the usual imports, and should be treated as anomalies for these purposes.

Currently, owing to the demise of any large scale Australian motor vehicle manufacturing plants, there are many talented people, who are experienced in the motor vehicle business looking for employment.

It would be a great shame that some of their expertise could not be deployed in the aftermarket, restoration or repair and maintenance fields of classic cars. Projects and restorations, similar to the DBSZ, could be undertaken here in far larger numbers, but for the impact of the LCT.

One only has to watch the plethora of almost exclusively overseas produced classic car devoted programs on TV these days, to appreciate what an opportunity is being lost to us, largely because we simply cannot compete.

Indeed, it could be successfully argued that cessation of the LCT on vehicles, [25 to 30 years since date of manufacture being generally accepted] would bring real benefits of employment, trade and manufacture to Australia.

The world Heritage Vehicle movement is huge, and gathering pace, and we are losing out because of an unfair tax, still being levied, without the justification of industry support, for which it was originally intended.

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Regards

Paul Sabine

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**From:** Terry Healy [mailto:mrwalker@automobilirapide.com]  
**Sent:** Sunday, 10 December 2017 3:26 PM  
**To:** Doug\_Young@iiNet.NET.Au; Doug.Young@IINet.Net.Au  
**Subject:** Classic Car Dealers & Luxury Car Tax

Hi Doug

Following is a copy of my letter to various ministers and attached is a reply from Murray Crowe Division head of Treasury, Individuals & Indirect Tax Division.

Thank you for contacting me. Please do not use my name in any asbestos lobbying! In my case fines for importing asbestos were waived but I was threatened that my name was recorded should I reoffend (their words) and fines would be levied based on that first offence. It was not a pleasant experience & having had experience with the powers Customs & the Australian Border Forces possess I have no wish to repeat it. I do however refer an attached article on the asbestos issue in Australia and I am sure the writer Michael Sheehan would have no objection to its use. It has been repeated in Hemmings Motor News in the US.

Please let me know if I can assist further. I wish you luck with your efforts.

Kindest regards

Terry Healy

Automobili Rapide P/L  
PO Box 917, Burleigh Heads,  
Qld, 4220  
Australia

AU Cell: +61 411 476 055

Email:mrwalker@automobilirapide.com

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**From:** Terry Healy [mailto:mrwalker@automobilirapide.com]  
**Sent:** Wednesday, 1 February 2017 4:49 PM  
**To:** 'jgalexander@aph.gov.au' <jgalexander@aph.gov.au>  
**Subject:** Classic Car Dealers & Luxury Car Tax

Dear John

Re our discussion this morning I have sent letters re LCT with attached UK figures on Classic Car Industry by email to the following politicians on 2/1/17 with reply status thus far in red. A copy of the letter follows and I have a link to the legislation before Parliament: "Tax and Superannuation Laws Amendment 2016 Measures No 2" :

[http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22legislation%2Fems%2Fr5685\\_ems\\_173c95c4-5e89-4fdc-9607-960a129c6a70%22](http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22legislation%2Fems%2Fr5685_ems_173c95c4-5e89-4fdc-9607-960a129c6a70%22) :

Scott Morrison [ministerial@treasury.gov.au](mailto:ministerial@treasury.gov.au)  
reply from Michael McCormack MP thanking me for my message. Followed by attached letter from M Crowe Div Head Individual Tax Div.

Sen. James Patterson ['senator.paterson@aph.gov.au'](mailto:'senator.paterson@aph.gov.au')  
personal reply as follows: "Dear Terry  
Thank you for getting in touch and your feedback. You make some very reasonable points. Personally, I think the rationale for a luxury car tax at all is weaker than it ever has been, but I see your point of view that it has particularly negatively affected classic car owners. I will pass your feedback on to my colleagues.  
Kind regards  
James  
Senator James Paterson  
Liberal Senator for Victoria"

Malcom Turnbull Prime Minister of Australia  
[webservices@pmc.gov.au](mailto:webservices@pmc.gov.au)  
automatic confirmation

Chris Bowen ['Chris.Bowen.MP@aph.gov.au'](mailto:'Chris.Bowen.MP@aph.gov.au')  
no reply

Warren Entsch ['warren.entsch.mp@aph.gov.au'](mailto:'warren.entsch.mp@aph.gov.au')  
no reply

Greg Hunt ['Greg.Hunt.MP@aph.gov.au'](mailto:'Greg.Hunt.MP@aph.gov.au')  
no reply

Craig Laundry ['Craig.Laundry.MP@aph.gov.au'](mailto:'Craig.Laundry.MP@aph.gov.au')  
no reply

Keith Pitt                    ['Keith.Pitt.MP@aph.gov.au'](mailto:Keith.Pitt.MP@aph.gov.au)  
automatic confirmation w/ lecture on how many emails he  
receives & inviting me to like him on social media

Sen. Nick Xenophon    ['senator.xenophon@aph.gov.au'](mailto:senator.xenophon@aph.gov.au)  
automatic reply constituents come first

Sen. Corey Bernardi    Bernardi Office (Senator)  
[bernardi.office@aph.gov.au](mailto:bernardi.office@aph.gov.au)  
automatic reply

Sen. Bob Katter            Katter, Robert (MP)  
[Bob.Katter.MP@aph.gov.au](mailto:Bob.Katter.MP@aph.gov.au)  
automatic reply constituents come first

Sen. Pauline Hanson    Hanson, Pauline (Senator)  
[Senator.Hanson@aph.gov.au](mailto:Senator.Hanson@aph.gov.au)  
automatic reply constituents come first

Sen. Derryn Hinch        Hinch, Derryn (Senator)  
[Senator.Hinch@aph.gov.au](mailto:Senator.Hinch@aph.gov.au)  
automatic reply

"Re: Luxury Car Tax and the Classic Car Business

Dear Minister

I have noted comments in newspapers by Paul Fletcher, Warren Entsch, George Christiansen and James Paterson relating to changes in Tax arrangements relating to importation of new cars by private individuals!

I note that most politicians would be unaware of the impact of the Luxury Car tax on the classic car industry and of the impact that waiving this tax on cars over 25 years old would bring to this country. I have put together some points for your consideration:

As you are aware this Tax was introduced to protect the now defunct new car industry not decimate the Classic car industry which are most commonly over 25 years old. I have attached a reply to my email to Treasurer, Hon Scott Morrison's office from Mr Murray Crowe A/G Division Head, Individuals & Indirect Tax Division.

For background I have been a Licenced Car Dealer in Qld since 1995 specializing in high performance sports and classic cars. I have been attending auctions and concours in the US & Europe since 1985 also competing at Monterey Historics with Porsche 962 and in concours in US. I have owned personally Ferrari 275 shortnose GTB & GTB/4 & numbers of Daytonas, 330 GTC, Dino 246, 250, 365, , Porsche 356 Speedsters, 911 RS and 962 Le Mans and more.

For the record my business waives the LCT until sale & has imported into this country numbers of Mercedes Benz 300 SL Gullwing and roadster, Ferrari 275 GTB & GTB/4, Daytona Spyder, Daytona coupes, 330 GTC, 246 GT Ford GT40, Shelby Cobra, Shelby Mustang, Bugatti T57, Bizzarrini, Iso Grifo, Alfa Romeo and much more. Near all of the expensive cars left these shores due to the impost of the LCT and Australian buyers reluctance to pay for it.

Any car regardless of age and condition costing over \$64,132.00 in its country of origin must have GST & Luxury Car Tax paid upon import to Australia adding 43% to its price! Then under the rules dealers must also pay increased LCT on the sale price if they restore the car under two years and sell.

This country produces little on import due to this onerous tax. Should the government waive the tax they will not forego any income as very few if any pay it now. What will happen is that income will rise substantially if it were abolished or at the least reduced to 2.8% in the USA or 5% in line with European countries. More of the great cars would come back to this country as exchange rates become attractive to buyers.

It is interesting that Art dealers who are in a similar business are treated very differently. In Australia there is a National Heritage Scheme that protects cars and other forms of Artwork from being sold overseas! The anomaly is that all other forms of Artwork do not have the onerous impost of Luxury Car Tax.

Furthermore if a person acquires a car overseas with previous Australian ownership, for example the 1956 Maserati 250F used to win an Australian Grand Prix by Victorian Stan Jones there is no allowance for previous residency in this country and all taxes are payable. This is not the case in Europe where a National Treasures scheme has an allowance for the repatriation of significant cars with local history or manufacture.

The potential in this country for restorers and small associated manufacturers and machinists should this tax be removed is enormous and I refer you to the attachment referring to the UK. For instance the 1967 Ferrari 275 GTB/4 I imported in damaged condition, I paid in this country some \$500,000 to restore it to

American Cavallino standards to enter US concours events. I offered that car for sale in Australia taking into account the LCT tax & any offer I received in this country was near \$1m less than the sum I received upon sale to a US buyer. That car is now worth some Au\$4m and if sold to an Australian free of LCT at the least the GST would have stayed in this country.

The big losers apart from the Federal Government who appear to have no interest in encouraging imports and the resultant fees & GST are the Australian public who miss out on seeing such magnificent vehicles being used on the track or in classic rallies, concours events or indeed on the road. Further we are bigger losers as high numbers of these cars are leaving the country to better markets with better exchange rates.

Take for instance a client's 1966 Ford GT40 currently kept in the UK & purchased in 2005, it cost at the time USD\$1.5m, if brought into Australia now & Customs accept his purchase price then add 10% GST = US\$1.65m and then 33% Luxury car tax = USD2.06m, ie: It would add US\$560,000 to the cost of this car which is AU\$770,000. Then there is the issue where Customs have the car revalued if they fail to accept an older than one year invoice. There is simply no incentive to bring it into Australia, he can pay for a first class holiday several times a year for the rest of his life to Europe where he can drive the car on the road or track and have it permanently housed in the UK. This car is now worth some USD \$5-8,000,000. Think what a sensible Government could do with 10% GST on such an import & owners would import them at that rate. Further there are owners around Australia with significant collections of cars based around the globe with no intention of ever bringing them home due to these taxes. Cars such as high end Ferrari, Jaguar C & D Type, Porsches and so many more

The government should also consider the operation of the Import Approval process! This process should be privatized and a proper commercial price charged for the right to import rather than the current \$50 which must barely cover costs & has no facility to check for roting upon import!

The UK for example sees this sector of the community as valuable; I recommend the Federation of Historic Vehicle Clubs 2016 National Historic Survey report at [www.fbhvc.co.uk](http://www.fbhvc.co.uk) where a figure of £5.5bn is the annual spend on historic vehicle related activity, some 34,900 jobs were created in that sector in 2016 and some £662m was

spent in the UK by non-British Historic Vehicle owners in 2016. I believe the figures for this sector in Australia would surprise and make one think what if had the LCT been removed.

Mr Crowe refers to legislation whereby museums and art gallery's will be allowed to buy cars LCT free. This will in no way enhance the numbers of the great cars in Australia and will only benefit those owners of collections already in museums rarely if ever seen in public. The government continues not to understand the potential of this sector of the Motor Industry and its passionate supporters who care little what museums or Art Galleries may have but more what they can personally aspire to. Art Galleries and museums will contribute nothing beyond GST upon import to the classic car world as reading of the legislation does not allow use of the vehicle and will in no way contribute to the supporting industry in the classic car world.

I do hope you can see some sense in the above and if not able to assist personally could you please direct this letter to the responsible Minister for their comment.

Yours Faithfully

Terry Healy

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PO Box 917, Burleigh Heads, Qld, 4220  
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US Cell: +1 310 955 7694  
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## Brief History of the LCT

Date	Event
1930	Commonwealth Government introduced a Wholesales Sales Tax (WST) on imports to protect Australian manufactured goods during the Depression <sup>1</sup> . The WST was an ad valorem tax, expressed as a percentage of the value of the goods. Customs Duty had been a primary source of federal revenue but with restricted imports a new tax had to be introduced <sup>2</sup> .
1979	The Fraser Liberal Country Party Government introduced a depreciation limit on cars, such that depreciation could only be claimed as a tax deduction on cars priced below the limit <sup>3</sup> . The limit was set just above the most expensive locally produced cars offered for sale by Ford and GMH. This was intended to protect Australian industry (and raise revenue, or rather, minimise deductibility).
August 1986	The Hawke Labor Government introduced a form of "luxury car tax" when it increased the WST rate on new cars costing more than the depreciation threshold from the standard 20% to 30%. <sup>4</sup>
May 1990	Labor increased the WST on luxury cars to 50%.
August 1990	A split WST rate was introduced with sales tax payable on luxury vehicles being the lesser of 50 per cent; or 30 per cent up to the statutory threshold and 75 per cent on the value above the threshold; with the threshold retail value for luxury tax being the same as the depreciation limit - \$45,056 in 1990-91. <sup>5</sup>
May 1995	Split WST rate adjusted to be 22 per cent for the first \$36,995 wholesale price (corresponding to about \$55,000 retail) and 45 percent on the balance above \$36,995. <sup>6</sup>
2 December 1998	Bill to abolish WST introduced - <i>A New Tax System (End of Sales Tax) Bill 1998</i> Digest prepared for debate - excellent history of introduction of WST

<sup>1</sup> "Understanding the luxury car tax" <https://www.allianz.com.au/car-insurance/news/understanding-the-luxury-car-tax>

<sup>2</sup> For a history of the circumstances preceding the introduction of the WST in 1930, see Bills Digest No. 106 1998-99 *A New Tax System (End of Sales Tax) Bill 1998* at [http://www.aph.gov.au/Parliamentary\\_Business/Bills\\_Legislation/bd/bd9899/99bd106](http://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/bd/bd9899/99bd106)

<sup>3</sup> Appendix "A" to the Submission by the Federal Chamber of Automotive Industries to the Tax White Paper Task Force <https://cfaia.space.gov.au/uploads/sites/52/2015/06/Federal-Chamber-of-Automotive-Industries.pdf>, in response to the "Re:think" Tax Discussion Paper, March 2015, [http://benertax.gov.au/files/2015/03/TWP\\_combined-online.pdf](http://benertax.gov.au/files/2015/03/TWP_combined-online.pdf)

<sup>4</sup> Senate Standing Committee on Economics Report into the Tax Laws Amendment (Luxury Car Tax) and associated Bills 2008; Dissenting Report from Coalition Senators; page 22.

<sup>5</sup> Ibid, p.22

<sup>6</sup> Ibid.

<sup>7</sup> Ibid.

Date	Event
1999	<p>From the Explanatory Memorandum to <i>A New Tax System (Luxury Car Tax) Bill 1999</i></p> <p>"1.22 Cars in general will fall in price as a result of the change from the wholesale sales tax to the GST. If the Government took no specific action, then the price of luxury cars would fall dramatically as they are currently subject to the special wholesale sales tax rate of 45% to the value above the luxury car tax threshold. The Government does not believe that this price reduction is appropriate following the replacement of the wholesale sales tax with the GST. Therefore, the Government will impose a retail tax on luxury cars, at a rate of 25% of the value above the luxury car tax threshold. The luxury car tax threshold is a GST-inclusive value equal to the car depreciation limit (the car depreciation limit for the 1997-98 financial year is \$55,134). The tax will ensure that luxury cars only fall in price by about the same amount as a car just below the luxury threshold."</p>
1 July 2000	Introduction of GST. WST abolished. LCT introduced whereby GST was applied to the purchase price PLUS a further 25 percent LCT applied to the purchase amount above the threshold, which in 2008 was \$57,180. This largely retained the status-quo of the pre-GST system and was at the request of large sections of the automotive sector. <sup>8</sup>
2004-05	LCT raised nearly \$298m in 2004-05. Over ¾ of LCT collections were from companies <sup>9</sup> .
14 May 2008	European Union submission to Bracks review asserts LCT a protectionist measure
18 June 2008	On 18 June 2008, the Senate referred the <i>Tax Laws Amendment (Luxury Car Tax) Bill 2008</i> , <i>A New Tax System (Luxury Car Tax Imposition—General) Amendment Bill 2008</i> , <i>A New Tax System (Luxury Car Tax Imposition—Customs) Amendment Bill 2008</i> and <i>A New Tax System (Luxury Car Tax Imposition—Excise) Amendment Bill 2008</i> to the Senate Standing Committee on Economics for report not before 26 August 2008. – re proposed increase in LCT from 25% to 33%
July 2008	Submission 14 Association of Motoring Clubs Inc (Vic) identified the anomaly on charging LCT on old cars.
22 July 2008	John Burt, President Sporting Car Club SA appears before Senate Standing Committee below.
1 July 2008	LCT rose from 25% to 33%
22 July 2008	Steve Bracks Review of the Australian Automobile Industry Report. Neutral as to

<sup>8</sup> Ibid.

<sup>9</sup> Bracks Review of Australia's Automotive Industry Final Report, p.35  
<https://industry.gov.au/industry/IndustrySectors/automotive/Documents/ReviewofAustraliasAutomotiveIndustry.pdf>

Date	Event
	LCT <sup>10</sup> but many telling submissions.
August 2008	Senate Standing Committee on Economics Inquiry Report issues into proposed amendments to the LCT rate from 25% to 33%
	<p data-bbox="427 477 621 510">Majority Report</p> <p data-bbox="427 544 792 577">The impact on historic vehicles</p> <p data-bbox="427 611 1352 835">2.54 While it is a tiny segment of the market, there is an anomaly in the way historic vehicles are handled. Vehicles over two years old or imported over two years ago are exempt from LCT. Some classic and vintage car enthusiasts have drawn attention to the fact that a classic or vintage car which would be exempt if purchased within Australia attracts the LCT if it is imported for sale. There is no tax on selling the cars outside Australia. Over time this may lead to a loss of Australia's motoring heritage.<sup>32</sup></p> <p data-bbox="427 869 1352 992">2.55 There may be a case to provide an exemption for vehicles over a certain age, such as more than 30 years old. Such an exemption would address the imbalance and the tiny proportion of such vehicles likely to be imported is unlikely to have any significant impact on the economic effect of the tax or revenue generated.</p> <p data-bbox="427 1025 1320 1081">* 32 Mr John Burt, Sporting Car Club SA, <i>Proof Committee Hansard</i>, 22 July 2008, p. 13<sup>11</sup>; <i>Association of Motoring Clubs, Submission 14</i>.</p>
	<p data-bbox="427 1126 906 1160">Dissenting report from Coalition Senators</p> <p data-bbox="427 1193 621 1227">Historic vehicles</p> <p data-bbox="427 1261 1352 1417">Evidence was given from both the Association of Motoring Clubs of Victoria and the Sporting Car Club of South Australia that as the luxury car tax also applies to secondhand vehicles imported from overseas, it is having a negative impact on the maintenance of Australia's motoring heritage by discouraging people from bringing such historic vehicles back into Australia.</p> <p data-bbox="427 1451 621 1485">Recommendation</p> <p data-bbox="427 1518 1255 1574">That the Henry Review of taxation examine the possibility of exempting imported vehicles over say 30 years of age from the Luxury Car Tax.</p>
	Important Note – bipartisan support for exempting imports of cars over 30 years old from the LCT
December 2009	Australia's future tax system: Report to the Treasurer (Henry Review) recommended abolition of the LCT

<sup>10</sup> Bracks, op. cit., p

<sup>11</sup> Hansard [http://www.apli.gov.au/Pallliamentary\\_Business/Committees/Senate/Economics/Completed\\_inquiries/2008-10/04ab\\_luxurycars\\_08/twarings/index](http://www.apli.gov.au/Pallliamentary_Business/Committees/Senate/Economics/Completed_inquiries/2008-10/04ab_luxurycars_08/twarings/index)

Date	Event												
	States the industry now worth \$600m pa.												
2011	Tax Forum at Parliament House Canberra <sup>12</sup> .												
5 October 2011	Ken Henry remarks to the Tax Forum: Described the LCT as “truly absurd” <sup>13</sup> .												
2011	Museums begin push for lifting LCT for importation of exhibits												
2011	Budget Paper No 2 – Treasurer Wayne Swan announced that LCT will not apply to imports by public museums and art galleries.												
	<p>Luxury car tax exemption for public museums and art galleries To be consistent with the GST free and Customs duty free treatment of imported art work or collectors' pieces, eligible entities such as endorsed public museums and art galleries will be able to import cars free of the luxury car tax. This change will apply from the date of assent of the enabling legislation.</p> <p>Source: Budget Paper No 2, p 32.<sup>14</sup></p>												
	<p><b>Luxury car tax — tax-free importation of cars by public museums</b></p> <p>Revenue (\$m)</p> <table border="1" data-bbox="430 1108 1356 1220"> <thead> <tr> <th></th> <th>2010-11</th> <th>2011-12</th> <th>2012-13</th> <th>2013-14</th> <th>2014-15</th> </tr> </thead> <tbody> <tr> <td>Australian Taxation Office</td> <td>-</td> <td>-0.5</td> <td>-0.5</td> <td>-0.5</td> <td>-0.5</td> </tr> </tbody> </table> <p>The Government will amend the luxury car tax legislation to allow eligible entities, such as endorsed public museums and art galleries, to import cars free from the luxury car tax. The change will apply from the date of Royal Assent of the enabling legislation and will cost \$2 million over the forward estimates period.</p> <p>This measure will ensure consistent treatment of imports by these entities which are currently able to import works of art or collectors' pieces free from Customs duty and goods and services tax. Allowing imports of museum pieces by these entities to be free of all import taxes will bring Australia fully into line with our international treaty obligations.</p>		2010-11	2011-12	2012-13	2013-14	2014-15	Australian Taxation Office	-	-0.5	-0.5	-0.5	-0.5
	2010-11	2011-12	2012-13	2013-14	2014-15								
Australian Taxation Office	-	-0.5	-0.5	-0.5	-0.5								
1 December 2013	Decision not to proceed with museums LCT exemption <sup>15</sup>												

<sup>12</sup> <http://www.treasury.gov.au/Policy-Topics/Taxation/Tax-Forum>

<sup>13</sup> <http://www.treasury.gov.au/Policy-Topics/Taxation/Tax-Forum/Videos-and-Transcripts/Remarks-by-Dr-Ken-Henry-AC> accessed 22/03/2017

<sup>14</sup> [http://www.budget.gov.au/2011-12/content/bp2/html/bp2\\_revenue-07.htm](http://www.budget.gov.au/2011-12/content/bp2/html/bp2_revenue-07.htm)  
<http://www.kmbba.com.au/pdf/afb2011-12.pdf>

Date	Event												
2014	Productivity Commission Inquiry Report into Australia's Automotive Manufacturing Industry concluded that the tax is a "higher cost and less efficient method of raising revenue than more broadly based taxes" <sup>15</sup> , and recommended that the tax be reformed. <sup>16</sup>												
12 May 2015	<p>LNP Government resurrects the Museums LCT exemption proposal, demonstrating it had true bi-partisan support</p> <p>Budget Measures Budget Paper No. 2 2015-16 The Honourable J. B. Hockey MP Treasurer of the Commonwealth of Australia and Senator the Honourable Mathias Cormann Minister for Finance of the Commonwealth of Australia</p> <p>Part 1: Revenue Measures (continued) <a href="http://www.budget.gov.au/2015-16/content/bp2/html/bp2_revenue-07.htm">http://www.budget.gov.au/2015-16/content/bp2/html/bp2_revenue-07.htm</a></p>												
	<p>Luxury car tax — exemption for cars acquired by endorsed public museums and public art galleries</p> <p>Revenue (\$m)</p> <table border="1" data-bbox="431 1046 1149 1178"> <thead> <tr> <th></th> <th>2014-15</th> <th>2015-16</th> <th>2016-17</th> <th>2017-18</th> <th>2018-19</th> </tr> </thead> <tbody> <tr> <td>ATO</td> <td>-</td> <td>-0.5</td> <td>-0.1</td> <td>-0.1</td> <td>-0.1</td> </tr> </tbody> </table> <p>The Government will allow public museums and public art galleries that have been endorsed by the Commissioner of Taxation as a deductible gift recipient to acquire cars free of luxury car tax. The measure will only be in respect of cars acquired for the purpose of public display, consigned to the collection and not used for private purposes.</p> <p>This measure will have effect from the date of Royal Assent of the enabling legislation. Assuming a start date in the 2015-16 financial year, the measure is estimated to have a cost to revenue of \$0.8 million over the forward estimates period.</p>		2014-15	2015-16	2016-17	2017-18	2018-19	ATO	-	-0.5	-0.1	-0.1	-0.1
	2014-15	2015-16	2016-17	2017-18	2018-19								
ATO	-	-0.5	-0.1	-0.1	-0.1								
17/03/16	Bill introduced; not proceeded with due to proroguing of Parliament												
14/09/16	Bill reintroduced												
	<p>EM states</p> <p><b>Cars for display by public institutions</b></p>												

<sup>15</sup> <http://bfh.ministers.treasury.gov.au/files/2013/11/MR017.pdf>

<sup>16</sup> <https://www.allianz.com.au/car-insurance/news/understanding-the-luxury-car-tax>

Date	Event
	<p>Schedule 3 to this Bill amends the <i>A New Tax System (Luxury Car Tax) Act 1999</i> to provide relief from luxury car tax to certain public institutions that import or acquire luxury cars for the sole purpose of public display. The changes apply to public museums, galleries, and libraries that are registered for goods and services tax and that have been endorsed as deductible gift recipients.</p> <p><i>Chapter 3 Cars for display by public institutions</i></p> <p>Contains clear exposition of how collectors pieces etc classified</p>
28/02/17	<p>Royal Assent given to <i>Tax and Superannuation Laws Amendment (2016 Measures No. 2) Act 15 of 2017</i></p> <p>exempts museums Schedule 3 Item 1 inserts a new subsection into the LCT Act</p> <p><b>Schedule 3—Cars for display by public institutions</b></p> <p><i>A New Tax System (Luxury Car Tax) Act 1999</i></p> <p><b>1 After paragraph 7-10(3)(b)</b></p> <p>Insert:</p> <p>(ba) you are *registered at the time of the importation, and the car:</p> <p>(i) is covered by item 7 in Schedule 4 to the *Customs Tariff; and</p> <p>(ii) is imported by the library, museum, gallery or institution to which it is consigned; and</p> <p>(iii) is imported for the sole purpose of public display; or</p>
	<p>LCT Act s.7-10 now reads</p> <p><b>7-10 Taxable importations of luxury cars</b></p> <p>(1) You make a <i>taxable importation of a luxury car</i> if:</p> <p>(a) the *luxury car is *imported; and</p> <p>(b) you *enter the car for home consumption.</p> <p>Note: There is no registration requirement for taxable importations, and the importer need not be carrying on an enterprise.</p> <p>(2) The *importation of the car includes any *car parts, accessories or attachments that you import at the same time as the car and that could reasonably be expected to be fitted to the car.</p> <p>(3) However, you do not make a <i>taxable importation of a luxury car</i> if:</p> <p>(a) you *quote for the *importation of the *car; or</p> <p>(b) luxury car tax has already become payable in respect of the</p>

Date	Event
	<p>car; or</p> <p>(ba) you are *registered at the time of the importation, and the car:</p> <ul style="list-style-type: none"> <li>(i) is covered by item 7 in Schedule 4 to the *Customs Tariff; and</li> <li>(ii) is imported by the library, museum, gallery or institution to which it is consigned; and</li> <li>(iii) is imported for the sole purpose of public display; or</li> </ul> <p>(c) the car is covered by item 10, 11, 15, 18, 21 or 24 in Schedule 4 to the Customs Tariff; or</p> <p>(d) the importation of the car is a *non-taxable re-importation.</p> <p>(4) To avoid doubt, a reference to a car that is covered by an item in Schedule 4 to the Customs Tariff includes a reference to a car to which that item would apply apart from the operation of subsection 18(1) of the <i>Customs Tariff Act 1995</i>.</p>

# NEWS

## Land speed record-breaking motorcycle to return to Australia after setting top auction price

ABC Radio Sydney By Luke Wong

Updated Sat 3 Feb 2018, 9:20am



PHOTO: Jack Ehret owned the Vincent Black Lightning for almost 50 years. (Supplied: John Ehret)

**The most valuable motorcycle ever sold at auction will soon return home to Australia where it set a national land speed record 65 years ago.**

The British-manufactured 1951 Vincent Black Lightning became part of Australian motoring history after Mascot-born speedster Jack Ehret rode it into the record books in 1953.

Forty years later his son, former sidecar racer John Ehret, was the last person to ride the motorcycle in competition.

"It was an incredible experience to ride it," he said.

"When you open the throttle on that, it just pulls out of the corners, it's quite effortless and it just flies down the straight."

The 1,000cc motorcycle was bought at auction last week by an undisclosed Australian businessman for \$US929,000 (\$1.16 million) in Las Vegas.

"I think it's a very important moment given its historical significance," Mr Ehret said of the bike's purchase and imminent return Down Under.

"I'm very happy it's returning to Australia."

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PHOTO: Jack Ehret with his Vincent Black Lightning at the Castlereagh airstrip speed trails in 1952. (Supplied: John Ehret)

## Riding into land speed history

In 1952 Jack Ehret began his quest to break the Australian land speed record held by rival rider Les Warton.

After a year of preparations, technical challenges and a battle to obtain permission from local authorities to stage the event, on January 19, 1953, he succeeded.

Ehret averaged a speed of 141.5 miles per hour (227.7kph) over two runs on a quarter-mile stretch of road at Gunnedah in north-eastern New South Wales.



PHOTO: Ehret's motorcycle encountered technical difficulties during the record attempt. (Supplied: John Ehret)

Ehret had worked during and after WWII as a fitter and turner at the Garden Island naval base in Sydney, making around £7 a week in wages.

However it was his off-duty activities that earned him the funds to afford the Vincent Black Lightning, which cost £500 — a significant amount of money in those days.

"He was also racing speedway at the Sydney Showgrounds on a Saturday night making £28 and then fronting up for road racing on a Sunday and making about another £35," his son said.

"He was making about 10 weeks' wages racing motorcycles."



PHOTO: Ehret averaged a speed of 141.5mph (227kph) over two runs on a quarter-mile stretch of road. (Supplied: John Ehret)

After the record-breaking ride, Ehret continued to race the bike for many years and won several titles.

"One thing about him, for all his faults and things like that, he could ride a bike," John said.

In 1999, two years before his death, Ehret sold the motorcycle to an Australian buyer who occasionally toured it around the rally circuit.

After exchanging hands, the bike was sent to France in 2014 and mechanically restored but retained its original factory paintwork and years of patina.

"When it was in dad's hands he very much had the philosophy to not play with it too much because it was a great bike as is," John said.

Another Australian connection to the story is Melbourne mechanical engineer Phil Irving who played a major role in the design of the motorcycle.

## Breaking auction records

Ben Walker of Bonhams auction house said the motorcycle attracted such a high price due its rarity, with only 19 remaining in existence.

"Most of them are not going to be seen or come out onto the open market," Mr Walker told ABC Radio Sydney.

"But then it's the history of this bike and the fact that Ehret got the Australian land speed record and that it had this continuous ownership."

While it is unknown what the buyer will do with the bike, Mr Walker hesitated to say if it was legally rideable on Australian roads.

"It's not just a trailer queen, it's not so shiny that you've got to wear sunglasses to look at it," he said.

"Hopefully the mystery buyer will take it out, put it on display, show it off to the public again; I think that would be really fantastic."



PHOTO: Jack Ehret beat the previous land-speed record of 139.81mph (225kph) set by Les Warton. (Supplied: John Ehret)

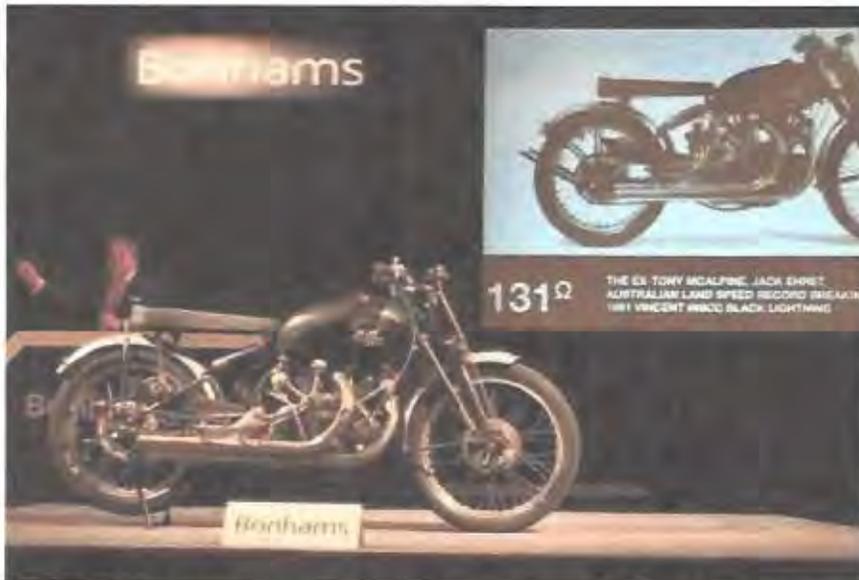


PHOTO: The Vincent Black Lightning fetched \$US929,000 at auction in Las Vegas. (Supplied: Bonhams)

Topics: human-interest, motor-sports, history, people, sydney-2000, gunnedah-2380

First posted Sat 3 Feb 2018, 7:00am

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Lot 127

**1901 DE DION BOUTON 4  
1/2HP MODEL G VIS-À-VIS**

**Registration no. to be advised**

**Chassis no. 612 Engine no.  
4636**

**Sold for £ 65,300 (AU\$  
116,179) inc. premium**

**THE WARD BROTHERS' RESERVE  
COLLECTION**

A Sale of Exceptional Veteran,  
Edwardian, Pioneer and Vintage Motor  
Cars, Motorcycles, Automobilia and  
Rivercraft

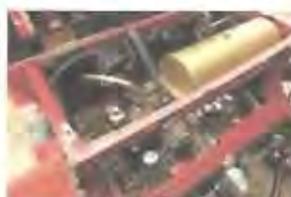
18 Jul 2009, 14:00 BST

HENLEY ON THAMES

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## LOT DETAILS

1901 De Dion  
Bouton 4  
1/2hp Model  
G Vis-à-vis  
Registration  
no. to be  
advised  
Chassis no.  
612  
Engine no.  
4636



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## AUCTION INFORMATION

This sale is now finished. If you are interested in consigning in future sales, please contact the specialist department. If you have queries about lots purchased in this sale, please contact customer services.

**FOOTNOTES**

Count Albert De Dion commissioned Messrs Bouton and Trépardoux, brothers-in-law and jobbing engineers, to build light steam carriages for him as early as 1882. In 1895 attention was switched to the fashionable new internal combustion engine and De Dion Bouton et Cie were marketing a diminutive petrol engined tricycle. These early tricycles were powered by Bouton's new, high speed, single cylinder, vertical engine which revved at almost twice the speed of the contemporary Daimlers. By 1899 the company was marketing a 3 1/2 HP voiturette, an all new generation of four wheel motor car with rear mounted engine driving through a system of gears to the rear wheels. A more powerful 4 1/2 HP engine was offered in the vis-à-vis models from October 1900 as the new model for 1901. A light tubular chassis frame was used and with this 498cc power unit the car had a comfortable speed of 25mph.

This car was acquired for the Collection from a German enthusiast and has been the subject of a well-executed restoration. The car is very smartly presented in red livery with black coachlining and all fittings are nickel-plated. It is upholstered to the correct pattern in black leather, the driver's seat back being protected by a black leather apron in correct style. Original specification has been carefully retained in all major respects and the car carries a supplier's plate bearing the inscription Agence Générale pour le Gard, l'Ardeche, L'Hérault et la Lozere – D. Champeyrache – Alais. The car is complete with a reverse gear fitting and features the rare and correct type 'drum' coil box. It is equipped with nickel-plated oil side lamps and a parasol basket. The car carries a motor club badge for Veteranen Fahrzeug Verband. The De Dion Bouton is admirably catered for by both the V.C.C. and the De Dion Bouton Club U.K. as well as similar clubs on the Continent, and with ready availability of the more commonly needed essential spares the 4 1/2hp Vis-à-vis De Dion is highly sought after. Simplicity of maintenance and driving ensure the appeal of this car to both novice and accomplished veteran motorists. With an early start from Hyde Park on the London to Brighton Veteran Car Run a 4 1/2hp Vis-à-vis can achieve a comfortable mid-day finish on Madeira Drive. This attractive veteran has not been registered in the U.K. but complies in all respects to original specification and registration should be a straightforward matter.

**BUYERS' OBLIGATIONS**

ALL BIDDERS MUST AGREE THAT THEY HAVE READ AND UNDERSTOOD BONHAMS' *CONDITIONS OF SALE* AND AGREE TO BE BOUND BY THEM, AND AGREE TO PAY THE *BUYER'S PREMIUM* AND ANY OTHER CHARGES MENTIONED IN THE *NOTICE TO BIDDERS*. THIS AFFECTS THE BIDDERS' LEGAL RIGHTS.

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**Payment in advance:** by cash, cheque with banker's card, credit card, bank draft or traveller's cheque.

**Payment at collection:** by credit or debit card.

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For information and estimates on domestic and international shipping as well as export licences please contact Bonhams Shipping Department.

**UP THE CREEK WORKSHOP P/L**  
22 Fitzgeralds Close, Castlemaine, Victoria 3450

Historic Car Tax Reform Group  
c/o Geoffrey Murdoch  
7 Elphin Grove  
Hawthorn Victoria 3122

5<sup>th</sup> February, 2018.

Dear Geoff,

**Removal of LCT on Cars over 30 Years Old**

We would like to provide our support for the Historic Car Tax Reform Group's work in seeking to remove the LCT from cars older than 30 years.

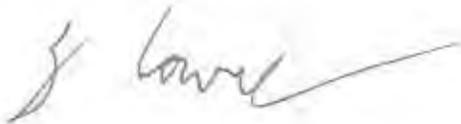
We are a regional business based in Castlemaine, Victoria and employ nine full-time or part-time people who all live in the area. They are skilled people who only work on cars older than 30 years.

We see no reason for this tax to be incurred on these vehicles and consider that it effectively stops the importation of these cars where their value is above the threshold, and is protecting no industry and negatively impacting ours.

We would expect that without the LCT on cars older than 30 years that imports would increase, from effectively zero, and our work would increase. We would consider employing more people and would continue to provide a world class service to Australian owners of old cars.

We look forward to the removal of LCT on cars older than 30 years.

Kind regards



Grant Cowie  
Proprietor